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**MINUTES**  
**OF THE**  
**ENVIRONMENTAL PROTECTION COMMISSION**  
**MEETING**

**DECEMBER 15, 1997**

**WALLACE STATE OFFICE BUILDING**  
**DES MOINES, IOWA**

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## MEETING MINUTES

### CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairman Ehm at 10:00 a.m. on Monday, December 15, 1997, in the Wallace State Office Building, Des Moines, Iowa.

### MEMBERS PRESENT

William Ehm, Chair  
Randal Giannetto  
Rozanne King  
Dean McWilliams  
Charlotte Mohr, Secretary  
Gary Priebe  
Terrance Townsend, Vice-Chair  
Rita Venner

### MEMBERS ABSENT

Kathryn Murphy

Director Wilson noted that Kathryn Murphy called and said she has a hearing in LeMars today and will not be at this meeting.

### ADOPTION OF AGENDA

The following adjustments were made to the agenda:

Add: Appointment - Mark Landa, OTC Petition for Stay (Item #16) 1:30 p.m.

*Motion was made by Charlotte Mohr to approve the agenda as amended. Seconded by Rita Venner. Motion carried unanimously.*

APPROVED AS AMENDED

### APPROVAL OF MINUTES

*Motion was made by Dean McWilliams to approve the meeting minutes of November 17, 1997, as presented. Seconded by Rozanne King. Motion carried unanimously.*

APPROVED AS PRESENTED



## DIRECTOR'S REPORT

Larry Wilson, Director, announced that Roya Stanley, former Energy Bureau Chief in the Energy & Geological Resources Division, has been named as Division Administrator for Waste Management Assistance Division, and she will present Items 6 & 7 today.

Director Wilson reviewed that last month he told the Commission he would like to give them some information about the DNR home page and noted that Jim Brown will make that presentation. Director Wilson related that the presentation will show the usage of the DNR's home page. He added that the department receives a monthly publication entitled "Web Trends" which shows a detailed breakdown of that usage.

Jim Brown, Environmental Protection Division, stated that considering the short time the DNR home page has been available it has received quite a bit of use. He noted that he is looking at marketing through the amount of use, where the hits are going, use of forms, newsletters, etc. Mr. Brown gave an overhead presentation displaying the DNR home page, surfing the DNR, and the amount of overall usage as well as site specific usage. He related that the DNR home page, comparatively, is being used as much or more than many other state agencies. He discussed the numbers of hits and users per month, use by various sections within DNR, and showed how to send E-mail to specific sites/individuals. He also showed how to access forms, applications, newsletters and the number of times they are printed. Mr. Brown noted that the DNR Program Directory, Publications list, and how to buy REAP license plates are all made available through the DNR home page. He related that he is planning to add about 1,000 pages on USTs, air and water quality.

Discussion followed regarding the frequency of updating the program; whether it would cause elimination of staff (answer was "no"); links to other state government areas; and marketing the program.

Director Wilson displayed and explained a survey card that went to all environmental permit applicants and permittees and noted that the second portion asks for recommendations on what people would like to see on our web pages. He related that several of the divisions have cards for distribution that contains their www address. Jim Brown distributed copies of results of the EPD survey card and recapped same. Further discussion took place on eventually placing the departmental rules on the internet.

## PUBLIC PARTICIPATION

### Tom Hadden (solid waste rules)

Tom Hadden, Metro Waste Authority (MWA), spoke on the proposed solid waste rules in regard to the demolition waste issue. He said one comment is that people keep referring to MWA being worried about losing additional revenue but that revenue stream is pretty much already gone. He related that down the road several miles is a C & D landfill which has taken that part of MWAs

business away, so that will not have a big impact. He noted that local demolition sites are not good public policy and these rules would be taking a giant step backward. He mentioned that he spent time with DNR staff & others on part of the legislative package to reduce the tonnage fee to landfills, but one provision was to put the tonnage fee into C & D waste because that waste is being buried in the ground and is part of the Groundwater Protection Act. He related that would add another funding source for the Waste Management Division. Mr. Hadden noted that other states already require liners for rubble sites because they know people will throw other wastes in there. On the height requirement it limits heights to 25-50 feet but the height limitation at Metro Park East has already been set and this would require them to go out further. He added that under Sub Title D requirements they would need to have liners and it would be a tremendous expense. He related that if the 50 foot limitation causes environmental problems they would look at that to see if it is a problem, but if it isn't it should be based on technical aspects rather than just a 25-50 foot limitation. He added that another aspect with local control on that issue is the aesthetics.

**Hal Morton (solid waste rules)**

Hal Morton, Executive Director of Des Moines County Regional Solid Waste Commission, spoke about the past economic impact on local governments in closing down open dumps and related that the proposed rule takes a giant step backward. He noted that solid waste permits provide a means of insuring that facilities are designed, operated, monitored and maintained properly, even after closure. He added that with a permit by rule it limits the department in compelling compliance with the design standards. Mr. Morton said another troublesome aspect is that the rule specifically exempts demolition areas from paying any state fees, and any enforcement action or inspections are paid out of state tonnage fees, which are paid for by the permitted facilities, so that is an equity issue. He expressed concern that this will undermine regional solid waste plans to meet their 50% reduction goals and discussed the need to double landfill space relative to the proposed height restrictions. He related that many landfills will be required to add active gas collection systems. He encouraged the Commission to consider the technical ramifications before moving forward with height restrictions.

**Pete Duffy (solid waste rules)**

Pete Duffy, South Central Iowa Solid Waste Agency, distributed copies of a hand-out to the Commission. He agreed with the previous two speakers that the demolition and construction rules need to be looked at and can be done through public hearings. He stated that he would like to see the Commission delete the part of the rules dealing with height restrictions and not even consider them. He noted that he had an engineering study done and he would lose 27.6% of his landfill with height restrictions and expanded on related costs to the landfill.

**Tim Hall (solid waste rules)**

Tim Hall, representing ISOSWO, stated they have concerns about two provisions of the proposed rules. He distributed copies of a memo outlining what ISOSWO suggests could be

changed in the rules to keep them moving in public comment. He discussed the issue of demolition waste disposal and proposed to let the rules stand with the exception that these activities be allowed to take place at permitted sanitary landfills. He related that his memo has an attachment that contains signed statements from a number of county sanitarians that agree with this position. He also spoke about the height restrictions noting that they would double the amount of land needed to dispose of solid waste and added that it is detrimental to protection of the environment and is bad economically. Mr. Hall stated that his memo contains recommendations for suggested language changes to the rules in these areas.

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**Steve Patterson (solid waste rules)**

Steve Patterson, Guthrie County Sanitarian and Landfill Coordinator, stated that most towns do not have the people and resources to take care of the types of sites noted in the proposed rules. He related that under the proposed rules these sites could pose significant problems with groundwater issues and other kinds of aesthetics, and it would be a step backwards. He related that the real value of the rules is to have on site a certified person that knows what they are doing. He noted that if it is turned over to the kinds of sites with no kind of regulation or having someone there who is not trained, it will end up in a mess.

**Kathy Morris (solid waste rules)**

Kathy Morris, Director of Scott Area Solid Waste Management Commission, noted that the Commissioners received a letter from her Board who were unhappy about the proposed height and depth restrictions after they discussed it at their meeting last Thursday. She discussed life cycle cost analysis of landfills and related that with this proposal it adds extreme additional costs. She noted that landfilling, recycling and composting is a major economic tool for bringing development into the communities. Ms. Morris related that this proposal jeopardizes all of the integrated waste programs. She stated that the height restrictions and demolition issues in the rules are a step backward. Ms. Morris said she served on the Waste Management Monitoring Committee and they asked that the C&D sites be reviewed and she expanded on same. She asked the Commission to modify the rules before they go out to public comment.

**Joe Robertson (solid waste rules)**

Joe Robertson, Marshall County Solid Waste Management Commission, stated that he supports everything spoken here in opposition to the proposed solid waste rules. He related that the major points of concern are the height restriction and the demolition rules, adding that the main thing that needs to be considered is the long environmental impact on any action that may be taken. He stated that he does not think it is a good decision for many small facilities to handle the waste as opposed to one for the whole area and it should be a decision at the local level.

**Debra McDonald (solid waste rules)**

Debra McDonald, Engineering Manager for USA Waste Services, Inc., presented background on her company and the services they provide. She echoed support of the previous speakers in opposition to the height restriction and expanded on added costs as a result of same. She discussed landfill design volume, height restrictions and increased costs and expanded on these issues. Ms. McDonald stated that the proposed regulations will constitute a taking of landfill capacity development rights for which compensation will be warranted, and it will unleash legal issues the DNR needs to consider before proceeding to promulgate. She added that there is no need for a blanket statewide limitation on landfill height, adding that such decisions should be made locally. In conclusion, she noted that she supports ISOSWO's recommendations as well as those of the previous speakers and requests that all references to landfill height restrictions be deleted from the proposed rules.

**Susan Heathcote (ag drainage well rules)**

Susan Heathcote, Research Director for Iowa Environmental Council, circulated photos of some ag drainage wells to show what they look like. She related that IEC supports the need for permits for continued use of ag drainage wells, adding that it is a very serious issue on the part of protecting the groundwater in Iowa. She noted that the legislation which was passed last year addressed pollution prevention in two ways. The first was to prohibit ag drainage wells from continuing to be used in the areas that were within the drainage areas of an earthen livestock lagoon. She related that the second was the continued use issue which is addressed in the proposed rules. Ms. Heathcote stated that they are trying to prevent direct surface water flow into these wells, adding that a study by DALs and ISU Extension indicated that prevention of that flow could significantly reduce the impact of these pollutants on the aquifer. She related that the legislature mandated that surface intakes will have to be closed and cisterns will have to be repaired to be water tight and have a locked cover to prevent unauthorized access. Ms. Heathcote noted that the proposed rules would implement those procedures. She stated that the IEC's concerns are not included in the proposed rules and stressed that monitoring should be required as oversight and to assure that all requirements for the permits have been implemented. She expressed concern about the unknown connections that run into a septic system and related there should be an inspections program to assure these have been taken care of and that other repairs have been done. She noted that in IEC's public comment it was stated that a 5 year issuance period for permits would be better than 10 years, and the response was that it would take a statutory change and she encouraged the Commission to re-evaluate that and encourage it to happen. She discussed a voluntary program for using best management practices in applying fertilizer and pesticides on the land and noted that some sort of accountability needs to be a part of the permitting process.

Brief discussion followed regarding options that could be utilized for monitoring.

**Dave Honkomp (solid waste rules)**

Dave Honkomp, Northwest Iowa Area Solid Waste Agency, expressed concern about the proposed height restraint on landfills noting that it will cut their landfill volume in half and they would have to buy another 80 acres. He related it would subsequently increase their costs by 50% and it also spreads out the environmental impact and the liability on the leachate collection systems. He asked the Commission to take a serious look at the rules before actually implementing them.

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**Elliott Waddell (solid waste rules)**

Elliott Waddell, Engineering Consultant for several landfills, spoke about the height restriction in the proposed rules noting that it seems to be a very arbitrary value. He related that when a site is designed, it is designed to promote drainage and to reduce the amount of infiltration into the landfill site, which will prevent migration of any leachate that is generated from going into the groundwater supply. He related that very few of these things can be accomplished more efficiently by lowering the height restriction. He added that they use a technical means to do these designs and expanded on same. Mr. Waddell stated that most landfills will require a re-design to meet an arbitrary number. He stated that fill height restrictions are a zoning situation and should be decided by the local entity. He spoke about the various increased costs as a result of the proposed height restrictions.

**FINANCIAL STATUS REPORT - YTD DIVISION EXPENDITURES**

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

The 11/30/97 YTD division-level expenditure status report is attached.

An expenditure budget is a program's annual operating plan stated in terms of a common denominator; dollars. A substantial variance indicates an unusual occurrence, problem or other deviation from the plan.

Typical reasons for variances include the following:

- A. Unrealistic initial expenditure estimates.
- B. Staff vacancies or hiring difficulty, usually resulting in an under variance.
- C. A one-time expenditure for a highly variable cost such as a major equipment item, a professional services contract, or a retirement.
- D. A seasonal variance not anticipated in the YTD estimate.
- E. An emergency or unanticipated demand for services, i.e., the 1993 flood, or implementing feedlot regulations.

The format has been changed to focus attention on expenditure management at the cost center, bureau and division levels. Input expenditure data (salaries, travel, etc.) at all agency levels is available to

DNR managers at their computers on a daily basis, and continues to be available to commissioners and other interested parties upon request.

This report format offers the following benefits:

- A. Directs attention toward program management.
- B. Improves budget accountability at all agency levels.
- C. Moves toward providing result data to policy makers.

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The *FY98 O/BDGT* column contains the original FY98 budget. The *FY98 A/BDGT* column provides a vehicle to reflect formal budget adjustments as they occur throughout the year. As of 11/30/97, no adjustments have been made. Thus, both columns contain the same amounts.

The *FY98 YTD A/Budget* column contains estimated Year-To-Date expenditures. As of 11/30/97 these estimates are based on standard formulas. For example, as of 11/30/97, approximately 38% of the salary budget should have been expended. For standard operating costs such as personal in-state travel, utilities, supplies, and utilities, the estimating algorithm assumes that payment will lag occurrence by 3 weeks. In other words, as of 11/30/97, YTD actual expenditures would be estimated at 34.8% of the annual budget. Other spending pattern estimates are used for the more variable costs; i.e., equipment, professional services, etc. Seasonal adjustments are included in the formulas for estimating programs of a seasonal nature, such as parks operations.

The cost center is the lowest budget unit. Typically, cost centers comprise or "roll up" to a bureau, and bureaus "roll up" to division. The cost center structure is, in the first instance, a function of the need to accurately account for and bill a large number of federal programs and state earmarked funds.

That is why both the Energy and Geological Resources division and the Environmental Protection division have a large number of cost centers; the need to account for separate grants.

As possible, cost centers should also reflect the DNR's managerial and geographical organization. When these needs conflict, the need to accurately account for revenue sources takes priority. That is why there are no separate budgets for each EPD field office. The cost center structure can be improved for reporting purposes and managerial accountability. That will be addressed as the DNR begins work on the next budget cycle.

The traditional approach in government financial reporting focuses on input (salaries, travel, etc) expenditures. However, input expenditures are a dependent variable. In other words, input expenditures result from policy changes, management decisions or other circumstances affecting a program's execution.

The DNR intends to revise budget management practice, as illustrated and supported by the attached monthly reporting document to DNR management and commissions, in order to facilitate budget compliance throughout the organization, to anticipate needed adjustments earlier in the budget cycle, and to record budget material adjustment commitments.

The need to make adjustments is already apparent. Several announced retirements in the Administrative Services division will involve significant payouts of accrued vacation time. It appears

receipts for the Parks division have been under estimated. The HIP information contract for \$46,000 approved at the November NRC meeting needs to be explicitly budgeted in the FW division.

Coming monthly reports will include a section describing material budget adjustments made or contemplated. Staff will answer questions concerning this report and related issues at the commission meeting.

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(A copy of the Budget Status Report by Division is on file in the department's Records Center)

Mr. Kuhn reviewed details of the above item and the individual division reports.

Discussion took place on the individual cost center managers and their responsibility in the budget.

Director Wilson related that the cost center managers do a very good job in regard to their fiscal responsibility and Stan is striving for a good balance within the Division but there may be unknowns which require adjustments at the end of the fiscal year.

Chairman Ehm commented that the costs are important but if the services are improved along the way and waste is eliminated it improves the process, and he feels this is getting to that point.

<b>INFORMATIONAL ONLY</b>
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### **IOWACCESS PROJECT - ENVIRONMENTAL PERMITTING STATUS**

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

Last spring, the State initiated a information technology demonstration project known as **IowAccess**, largely financed by a \$4 million federal grant. The thrust of this project is to create a single electronic gateway for government services and information.

\$270,000 of \$4 million grant is budgeted for Environmental Permitting. Within the IowAccess structure, a decision was made to use \$270,000 to improve processing of Air Operating and Air Construction permits. Briefly, IowAccess would develop a software tool which would allow permit applicants to prepare and submit their applications electronically. This approach would bypass the imaging system currently used for Title 5 permits, and would serve as a model for improving permitting in other DNR areas. The anticipated benefits include faster permit turnaround time and more efficient processing, both by the applicant and by the DNR. The software would be made available to other states.

The Environmental Permitting project is one of 13 projects under the IowAccess umbrella. IowAccess is directed by a steering committee consisting of the Director of Iowa's Information Technology Services division, several other Department directors, the head of the Federal

General Services Administration and representatives from local government. There is a separate citizens advisory committee. Each of the 13 projects involves people from all government levels and the private sector.

A Request for Proposals (RFP) was developed by the Environmental Permitting team. Responses to the RFP are being opened December 3rd. Assuming the project comes in within budget, the contract will be approved by the IowaAccess leadership. Thus, no action by the EPC would be necessary. However, the RFP was written in a manner which would allow the DNR to support the project if the IowaAccess budget was not sufficient. In that event, approval by the EPC for DNR budget support of the contract would be necessary.

Mr. Kuhn explained the project and process in detail. He noted that responses to an RFP for environmental permitting were opened last week and the project team selected the proposal from Windsor Technologies. He related that staff are looking at some additional options for the project and he may possibly be back for contract amendments in January.

Brief discussion followed.

<b>INFORMATIONAL ONLY</b>
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## **EVALUATION OF RETAILERS CONSUMER EDUCATION PROGRAM, PHASE I FINAL REPORT**

Roya Stanley, Division Administrator, Waste Management Assistance Division, presented the following item.

Household hazardous materials (HHM) are products that when used improperly or disposed of improperly can adversely effect our health, the environment, and our groundwater. In Iowa, groundwater supplies up to ninety percent of the state's drinking water. HHMs include products like motor oil, motor oil filters, degreasers, waxes and polishes, solvents, paints, lacquers and thinners, caustic household cleaners, spot and stain removers, and pesticides.

The Groundwater Protection Act created several programs to protect Iowa's groundwater from contamination due to a study that found that forty percent of Iowa wells were contaminated with several pesticides and a myriad of toxic organic chemicals that are found in HHMs. The Retailers Consumer Education Program (RCEP) was one of the tools created to raise the awareness of retailers and consumers about the proper use, disposal of, and alternatives to HHMs. Specifically, the program requires retailers to identify HHMs and make information available to customers about their proper use and disposal.

In January 1997, the Department commissioned a study to evaluate the effectiveness of the RCEP. This study was conducted due to the fact that since the RCEP began few retailers have met any or all of the law's requirements. The RCEP requires that retailers post stickers, signs and brochures. If stickers, signs and brochures are properly posted, consumers will be able to



make more informed purchasing decisions. When consumers make an informed purchase they can:

- buy safer alternatives; **OR**
- buy only as much of a HHM as they need;
- use up the HHM or give away any unused portions;
- dispose of any leftover HHMs properly.

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This study of the effectiveness of the RCEP was conducted from January through September 1997 by Cascadia Consulting Group. The review of the RCEP included evaluating current retailer and intergovernmental relationships, determining retailers' perceptions towards compliance, and exploring retailer and consumer attitudes on sales and awareness of HHMs.

#### Study methodology

The research targeted three general audiences: (1) "stakeholders" - landfill operators, TCD and RCC coordinators, recycling coordinators, state and local agency personnel, environmental group leaders, county extension agents, retail trade association leaders and lobbyists; (2) Retailers - managers and owners representing the manufacturing, general mercantile, grocery, hardware, and automotive sectors; and, (3) consumers - residents from throughout Iowa.

A series of market research techniques were used to evaluate each groups' perceptions regarding the effectiveness of the RCEP. This process included: fifty telephone interviews with the stakeholders; two retailer roundtable discussions; two consumer focus groups; a telephone survey of 300 Iowa residents; and culminated in a "charrette" with DNR staff, retailers, and stakeholders. The "charrette" involved a cross-section of retailers, state and local agency administrators, and interest groups and included a brainstorming session to review the results of the research and craft recommendations for changing the current RCEP and shaping new initiatives for more effectively educating Iowans about HHMs.

#### Study Findings

- 96% of consumers polled were familiar with the term HHMs but less than 25% of those consumers could actually name something considered a safer alternative.
- Consumers are concerned about the health and safety of their children and about the problem of groundwater pollution.
- There is broad consensus that the information content of the program's brochures and posters provide correct and helpful information, but there is widespread agreement that the messages of proper disposal and safer alternatives are not getting through to the public.
- Non-retailer stakeholders viewed lack of enforcement as the major weakness in the program.
- A majority of the stakeholders viewed education in the schools as an effective means of educating the public about the program's message.
- Convenient disposal options are essential to the program's success but consumers are unaware that there may be HHM collection sites near them that provide free collection.
- Retailers are in the education and promotion business in order to sell product, but presently none of the education required by law is tied to benefits for each retailer.
- Consumers feel that HHM management message should be disseminated through all media avenues and also through in-store educational displays and school-based education.

The research gathered by Cascadia suggests two primary reasons for the program's ineffectiveness: (1) The current point-of-sale program is not sufficiently prominent to provoke awareness on the part of the consumer, and (2) RCEP activities take place in isolation at the retail level and without sufficient interaction with the established HHM education infrastructure. In light of these findings, a set of recommendations has been formulated regarding future implementation of the RCEP.

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#### Study's recommendations

The following summarizes the recommendations resulting from the study:

1. Expand HHM education beyond point-of-purchase to include media and in-school education.
2. Improve the current RCEP by updating education materials and educating retailers about HHMs and program requirements.
3. Evaluate and promote collection infrastructure since retailers and consumers perceive that HHM collection opportunities are inconvenient.

Details on the methodology, findings, and recommendations are summarized in the attached RCEP Final Report Executive Summary. (The full report which is approximately 250 pages is also available.) Next month the Waste Management Assistance Division anticipates bringing before the commission a contract to conduct Phase II of the RCEP review. Phase II will involve the implementation of a pilot of the revised program.

(A copy of the report entitled "Evaluation of the Retailers Consumer Education Program" is on file in the department's Records Center)

Ms. Stanley reviewed details of the report and explained changes which will occur in 1998 in the HHM program. She pointed out the recommendations of the study and noted that in January or February she will ask for approval of a contract to conduct Phase II of the RCEP review.

INFORMATIONAL ONLY
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#### **CONTRACT AMENDMENT - LAIDLAW ENVIRONMENTAL SERVICES**

Roya Stanley, Division Administrator, Waste Management Assistance Division, presented the following item.

The commission authorized the Director to implement a contract with Laidlaw Environmental Services of Illinois, Inc. for the purpose of disposal of wastes collected at Toxic Cleanup Day events for the fiscal year 1997.

The original contract allowed for an extension of one year to the Laidlaw contract based on their performance during the original term of that contract. Laidlaw's performance during the original term of the contract was found to be satisfactory and extension of the contract was approved.

The performance of the contractor for Toxic Cleanup Day events held during this extension period will be on the same basis as set forth in the original contract.

The department has requested additional proposals from Iowa counties to host spring of 1998 Toxic Cleanup Day events. The following eleven counties have been selected to host the spring events:

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Buena Vista	Decatur	Union
Butler	Grundy	Wapello
Chickasaw	Guthrie	Woodbury
Clayton	Montgomery	

The DNR has negotiated a local cost share with each county.

The department recommends that the contract 97-G340-01 be amended to include the eleven spring Toxic Cleanup Day events at a total cost not to exceed \$216,427.50. The commission is requested to authorize the Director to execute this amendment for the 1997 spring Toxic Cleanup Day events.

Ms. Stanley reviewed details of the contract amendments.

*Motion was made by Rozanne King to approve the Contract Amendment for Laidlaw Environmental Services as presented. Seconded by Terrance Townsend. Motion carried unanimously.*

**APPROVED AS PRESENTED**

## **REFERRALS TO THE ATTORNEY GENERAL**

Mike Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the commissioners and are confidential pursuant to Iowa Code section 22.7(4). The parties have been informed of this action and may appear to discuss this matter. If the Commission needs to discuss strategy with counsel on any matter where the disclosure of matters discussed would be likely to prejudice or disadvantage its position in litigation, the Commission may go into closed session pursuant to Iowa Code section 21.5(1)(c).

- a. Organic Technologies Corporation et al. (Warren County) - solid waste
- b. A.J. DeCoster (Hamilton County) - water pollution

**A. J. DeCoster**

Mr. Murphy stated that this case involves an incident regarding Sow Unit #3, in Hamilton County. He related that on August 27, 1997 staff investigated a complaint of a fish kill in the South fork of the Iowa River and documented stream pollution and a small fish kill. He related that they traced the source of the discharge to a tile outlet which was in relation to some manure that had been disposed of by DeCoster from this facility. He noted that some of the manure had pooled in a marshy area and the investigation showed that there was a tile line running to it that was connected to the tile that discharged. Mr. Murphy noted that this case follows an extensive prior history of three Administrative Orders and six referrals to the Attorney General. He stated that based on the pollution involved in this case as well as the history of the operation staff feel referral is appropriate.

**Appointment - Michael Mallaney**

Michael Mallaney, Smith Law Firm, distributed copies of a letter he wrote to Larry Wilson regarding the pending referral on Sow 3. He spoke about HF 519 in regard to the "three strikes and you're out law." He related that the law came into effect in May 1995 but was made retroactive to January 1995. He noted that the statute has a two part process for referral to the AG: 1) the Director of the DNR has to make the recommendation as to whether a particular violation warrants referral, but the AG can bring action on his own; 2) the Commission has to make a determination whether or not the particular incident warrants referral. He related that HF 519 has an immediate impact and an immediate punishment, which takes place way before the merits or demerits of the violation are determined by a court of law. As a result Mr. Decoster cannot obtain building or construction permits for facilities that require permits. Mr. Mallaney stated that before one is punished the court should hear the evidence and testimony and base it's decision on the what the guidelines, rules and law is. He related that the Commission sits as a jury, and Mr. Bill Smith has previously raised the issue as to what guidelines and/or criteria the Commission follows in making their decision. He stated that he has never been told the facts and what criteria about this particular incident has been used to warrant referral. He related that it has been suggested that Chapter 10 covers the criteria. Mr. Mallaney added that in prior referrals Mr. DeCoster has not been told why a particular incident was or was not referred. He spoke about the process for placing an item on the agenda and related that some violations never make their way to the Commission, adding that Mr. DeCoster is the only hog producer referred under HF 519 and without criteria there are some real issues there. He discussed a list of violators previously kept by the department and noted that after Mr. Bill Smith stated that Mr. DeCoster was being treated unfairly in comparison other producers, the list stopped. He expanded on several exhibits dealing with violations by other pork producers. Mr. Mallaney stated that the purpose of referring every matter involving Mr. DeCoster is to obtain "three strikes and you're out" against Mr. Decoster. He discussed samples taken at the discharge site in this case and noted that he disputes the conclusion reached by the DNR field office. He spoke about dredging going on in the area which makes the water look dirtier. He asked why the total suspended solids are less at the 22" outfall than 20 yards downstream, and suggested that something else is going on there than what the DNR claims. He noted that it took DNR almost a week to locate the 5" field tile and the time may be a factor as to

whether or not Mr. DeCoster was the source of the discharge. Mr. Mallaney further discussed the tests and stated that it is not clear what happened but there was no saturation or over application of manure by DeCoster, and the amount of application was not in excess of the limits established by DNR criteria and it met the nutrient requirements. He stated that it was not the intent of HF 519 to warrant referral in a situation such as this and it should be handled administratively. Mr. Mallaney reviewed the chronology noting that some of the incidents took place prior to HF 519. He reiterated that he is entitled to know what it is about this particular incident that warrants referral, and what the criteria are for referring it.

Mr. Murphy reviewed that he has stated his reasons for bringing the matter to the Commission and why it should be referred to the AG, adding that it is one in a long line of violations. He related that this particular violation caused a lot of pollution, and the stated reasons are used consistently in bringing these types of cases to the Commission. He noted that each case is evaluated and the record shows that staff have taken administrative actions as well as referrals in these types of cases. He added that Mr. DeCoster can have his day in court with the judge.

Gary Priebe asked why the fecal chloroform would be higher down stream than at the outfall.

Mr. Murphy stated that one explanation would be the fact that they were taken some time period apart, and also filtering. He related it was very clear that the organic pollution in the stream was due to pollution coming from the out fall.

Discussion took place regarding the samples being taken 15 minutes apart, the strength of each sample, and that there can be a lot of explanations for variations.

*Motion was made by Rita Venner for referral to the Attorney General's Office. Seconded by Dean McWilliams.*

Rita Venner commented that she finds it difficult to understand why Mr. DeCoster did not check to see where the field tiles were. She noted that responsible owners would check that before applying, adding that most of those records are available.

Mr. Mullaney stated that there were no county maps to show that and it was only after DNR did extensive investigating with a backhoe that the tile was found.

*Vote on Commissioner Venner's motion to refer carried unanimously.*

**REFERRED**

**CONTESTED CASE APPEAL--ORGANIC TECHNOLOGIES CORPORATION PETITION  
FOR STAY**

Mike Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

The Commission affirmed the Administrative Law Judge decision in the contested case involving Organic Technologies Corporation et al. [OTC], at its November 17, 1997, meeting. Pursuant to our rules in contested cases, OTC has requested that the Commission stay the effect of that decision during the pendency of judicial review of the decision. The department has filed its resistance to that Petition and urges that it be denied. Those documents have been provided to the Commission. The Commission is requested to decide whether to grant or deny the request for stay.

### **Organic Technologies Corporation (Referral to the Attorney General)**

Mr. Murphy stated that he will handle this item and the Contested Case Appeal - Petition for Stay at the same time. He reviewed that last month the Commission affirmed the ALJ decision relating to the administrative order penalty and notice of intent with respect to various permits. He related that counsel for OTC, in anticipation of filing for judicial review of that case, has requested that the Commission grant a stay of that decision, pending review by the courts. Mr. Murphy related that he has, in turn, filed a resistance to the stay indicating that he thinks it is the wrong message to send for this Commission to tell them, in effect, it's okay to keep doing what they are doing. He noted that in a related matter he brought forward a request to refer the ongoing violations to the AG, and noted that they continue to operate without regard to their former permit. He related that he feels it warrants injunctive and punitive relief through the courts. Mr. Murphy circulated photos showing the current operation and some of the things that are going on there.

Rozanne King asked if the Commission does not grant the Petition for Stay whether OTC would have the opportunity to appeal through the judicial system.

Mr. Murphy replied in the affirmative and expanded on the process. He referred to the photos and related that materials remain unprocessed at the site for months. He noted that staff are asking the Petition for Stay be denied and the matter also be referred to the Attorney General.

### **Appointment - Mark Landa (OTC referral & Petition for Stay)**

Mark Landa, Attorney for Organic Technologies, Inc., circulated photos of the area taken last week. He also circulated photos taken last summer at the height of enforcement action being taken. He likened the difference in the photos as similar to a house at Thanksgiving when the meal is completed, the dishes are in the sink and on the table, and everyone is sitting around waiting to clean up, but that is not the way the house looks all of the time. At the end of the day the house is cleaned up and the dishes are put away. He related that when materials are brought to the site they are allowed to remain on site for 72 hours before being processed and that should be kept in mind. Mr. Landa reviewed the two issues for the Commission to decide today, adding both of which will determine whether the company will survive. He stated that he is requesting

the final decision be stayed because the issues to be considered by the court will not be resolved prior to the three month time period that the facility is to be shut down, and the right to appeal the decisions will be rendered moot because the company will have been destroyed by the time they can have their issues considered. Mr. Landa stated that the logical conclusion of the course of events chartered by the department will lead to the closing of the facility. He noted that the Commission ruled last month that to shut OTC down was too harsh of a sanction and yet the department persists in its efforts to shut the facility down. He related that not everyone in the department has the same opinion with regard to the operation of the facility, and he expanded on Mr. Frable's testimony. He reviewed the issues relating to permitting a site at Hardin County and related that the city of Ottumwa terminated negotiations with OTC when the Hardin County facility was denied. He stated that the department took actions based solely on the existence of odors and last month the Commission ruled that the department does not have that authority. Mr. Landa said several DNR personnel live near the OTC facility and have daily scrutiny of the facility and this scrutiny will result in complaints, and personal and emotional positions regarding operation of the facility. He discussed perceived violations by the department and their authority over same. He noted that the Commission's decision says OTC should be given the opportunity to continue their composting operation and market their compost, and the department's request today goes against that ruling. He circulated a photo of a large wood chip pile in Urbandale that has been there for over one month and related that if compared to some piles of managed compost you would not be able to distinguish the two. He assured the Commission that OTC is not going to abandon the facility.

Rita Venner asked about OTC's markets for the dirt product.

Mr. Landa stated that they market it to landscapers and to farmers for soil enhancement, and are also looking at landfills to use as cover material.

Rita Venner asked if OTC is operating under a legal permit.

Mr. Landa stated that they are operating under the permit that was in existence at the time OTC filed for a renewal, and that permit will expire in February 1998.

Rozanne King asked what amount of tonnage is produced per year, and what percentage of it is actually marketed.

Mr. Landa stated that he has submitted that information and believes they market 6,000-8,000 ton range over a 6-8 month period. He added that they receive about 35,000 tons of material per year, when composted is a 50-60% change of volume.

Mr. Murphy stated that the testimony at the hearing was that between September 1995 and April 1997 they had received about 70,000 tons of material. Close to 10,000 tons had been marketed at that time. He related that their witnesses testimony was that there is about a 50% reduction in weight. He noted that he thinks they actually now receive 40,000-50,000 tons per year and under 2,000 tons have been marketed this year. He disputed Mr. Landa's analogy of the situation to Thanksgiving dinner relating that letting your dishes sit around for three months

would be more analogous to what is going on there. Mr. Murphy stated that their permit allowed 10,000 tons per year and they have been exceeding it all along. He related that the Commission's decision said that revocation of the permit was justified based on violations. He noted that if the Commission grants a stay they are giving them a free ride until the courts make a decision, and the judge can do that if he so desires.

Discussion followed regarding the plastic lined bags being taken in; the difference in the DNR photos and OTC's photos; the difference in views at different times; whether referral would put them out of business; and whether they could get a permit for Hardin County if they came into compliance.

Chairman Ehm stated that he would like the Commission to deal first with the Petition for Stay.

*Motion was made by Terrance Townsend to deny the request for Organic Technologies Corporation Petition for Stay. Seconded by Randal Giannetto.*

Terrance Townsend stated that he felt if they needed a stay he would not have voted in favor of the ALJ decision last month.

*Vote carried unanimously.*

**PETITION FOR STAY DENIED**

*Motion was made by Charlotte Mohr for referral of OTC to the Attorney General's Office. Seconded by Rita Venner. Motion carried unanimously.*

**REFERRED**

## **MONTHLY REPORTS**

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Enforcement Status Report
5. Contested Case Status Report

Members of the department will be present to expand upon these reports and answer questions.



**Monthly Variance Report - November 1997**

No.	Facility	Program	Engineer	Subject	Decision	Date
1	American Concrete Products, Inc.-Johnston	Air Quality		Permit Requirements	Approved	11/03/97
2	Cargill Corn Milling-Eddyville	Air Quality	Thompson Environmental Consulting, Inc.	Permit Requirements	Approved	11/15/97
3	Griffin Pipe Products Co.-Council Bluffs	Air Quality		Permit Requirements	Approved	11/03/97
4	Hach Company-Ames	Air Quality		Permit Requirements	Approved	11/15/97
5	Imperial, Inc.-Hampton	Air Quality	Nelson Engineering	Permit Requirements	Approved	11/07/97
6	Sauebry, Glen-Greeley	Air Quality		Structures	Denied	11/14/97
7	Harcourt, City of	Wastewater	Fox Engineering	Site Separation	Approved	11/19/97
8	Ankeny, City of	Wastewater		Monitoring Frequency	Approved	11/04/97
9	MidAmerican Energy Co.-Maynard Station Generating Plant-Black Hawk County	Solid Waste	MidAmerican Energy-Jay Dillavou, Environmental Coordinator	Coal Combustion Residue	Approved	11/20/97
10	MidAmerican Energy Co.-Maynard Station Generating Plant-Black Hawk County	Solid Waste	MidAmerican Energy-Jay Dillavou, Environmental Coordinator	Permit Exemptions	Approved	11/20/97
11	Tenneco CPI Industrial Landfill-Tama	Solid Waste	Seneca Environmental Services	Groundwater Monitoring	Approved	11/20/97
12	Boone Water Works	Watersupply	McClure Engineering	Installation Procedures	Approved	11/04/97
13	Kingsley, City of	Watersupply	Kuehl & Payer, Ltd.	Construction Materials	Approved	11/04/97
14	Madrid, City of	Watersupply	Gjersvik & Associates, Inc.	Construction Materials	Approved	11/04/97
15	Madrid, City of	Watersupply	Gjersvik & Associates, Inc.	Installation Procedures	Approved	11/04/97

**Spill Report - November 1997**

From November 1, 1997, through November 30, 1997, 44 reports of hazardous conditions were received. A general summary and count by field office is presented below.

Month	Total Incidents	Petroleum Product	Agri - Chemical	Other Chemicals	Handling and Storage	Pipeline	Highway Incident	RR Incident	Fire	Other
Oct.	70(52)	37(28)	17(10)	16(14)	28(31)	6(0)	28(13)	5(4)	0(0)	3(4)

Nov.	44(33)	25(18)	9(9)	10(6)	15(16)	3(0)	23(12)	2(2)	0(0)	1(3)
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(numbers in parentheses for the same period in fiscal year '97)

Total Number of Incidents Per Field Office This Period:

1	2	3	4	5	6
5	8	5	3	12	11

### Rulemaking Status Report December 1, 1997

Proposal	Notice to Comm	Notice Publish	Rules Review Comm	Hearing	Final Summary to Comm	Rules Adopted	Rules Publish	Rules Review Comm	Rule Effective
1. Ch. 20,22,23,24,25,28, 29 and 31 - Air Quality Rules	12/15/97	*1/14/98	*2/3/98	*2/ /98	*3/16/98	*3/16/98	*4/15/98	*5/5/98	*5/13/98
2. Ch. 44 - Drinking Water Revolving Fund	8/18/97	9/10/97	10/07/97	10/7,13-17/97	12/15/97	*12/15/97	*1/14/98	*2/03/98	*2/18/98
3. Ch. 49, 64 and 69 - Nonpublic Water Well Construction and Private Sewer System Construction Standards	10/20/97	11/19/97	12/08/97	12/9-11, 15 and 17/97	*1/19/98	*1/19/98	*2/11/98	*3/09/98	*3/18/98
4. Ch. 50, 51, and 52 - Agricultural Drainage Wells	8/18/97	9/10/97	10/07/97	10/7,8,10/97	12/15/97	*12/15/97	*1/14/98	*2/03/98	*2/18/98
5. Ch. 64 - General Permits -- Stormwater	6/16/97	7/16/97	8/19/97	8/07/97	10/20/97	10/20/97	11/19/97	12/08/97	*12/24/97
6. Ch. 65 - Animal Feeding Operations	7/21/97	8/13/97	9/08/97	9/2-4,8,9,11/97	11/17/97	11/17/97	12/18/97	*1/06/98	*1/21/98
7. Ch. 92 - State Revolving Fund	*1/20/98	*2/11/98	*3/09/98	*3/ /98	*4/20/98	*4/20/98	*5/13/98	*6/09/98	*6/17/98
8. Ch. 102 and 103 - Solid Waste	12/15/97	*1/14/98	*2/03/98	*2/ /98	*3/16/98	*3/16/98	*4/15/98	*4/05/98	*5/13/98
9. Ch. 134 - Registration of Groundwater Professionals	10/20/97	11/19/97	12/08/97	-----	*1/19/98	*1/19/98	*2/11/98	*3/09/98	*3/18/98

### Enforcement Report Update

<u>Name, Location and Field Office Number</u>	<u>Program</u>	<u>Alleged Violation</u>	<u>Action</u>	<u>Date</u>
John Adam, Keokuk Co. (6)	Wastewater	Prohibited Discharge	Consent Order \$7,500	10/30/97
Emery Gingerich d/b/a Gingerich Well and Pump Service, Kalona (6)	Wastewater	Prohibited Discharge; Pretreatment	Order/Penalty \$1,100	11/4/97
Troy Elevator, Inc. Troy (6)	Wastewater; Hazardous Condition	Prohibited Discharge; Remedial Action	Order/Penalty \$4,000	11/4/97

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West Union Cooperative Co., West Union (1)	Wastewater; Hazardous Condition	Prohibited Discharge; Failure to Notify	Order/Penalty \$10,000	11/4/97
Dows, City of (2)	Wastewater	Discharge Limits	Order	11/4/97
Carpenter Bar & Grill, Carpenter (2)	Drinking Water	Monitoring/Reporting - Bacteria, Nitrate; Public Notice	Referred to AG	11/17/97
Trace, Inc.; Ronald Tracy, Howard Co. (1)	Wastewater	Prohibited Discharge	Referred to AG	11/17/97
Northwest Iowa Cooperative, George (3)	Wastewater	Prohibited Discharge	Order/Penalty \$3,000	11/20/97
Ronald Juergens, Carroll Co. (4)	Wastewater	Prohibited Discharge	Order/Penalty \$3,000	11/20/97
Clinton, City of (6)	Wastewater	Compliance Schedule; Discharge Limits	Order	11/20/97
Alan Rasmussen, Webster Co. (2)	Wastewater	Prohibited Discharge	Order/Penalty \$500	11/20/97
Milton, City of (6)	Air Quality; Solid Waste	Open Burning; Illegal Disposal	Order/Penalty \$1,000	11/20/97
David McClellan, Hardin Co. (2)	Air Quality; Solid Waste	Open Burning; Illegal Disposal	Order/Penalty \$500	11/20/97
White Oaks Homeowners Assoc., Ankeny (5)	Drinking Water	MCL-Other Inorganics; Monitoring-Other Inorganics; Public Notice	Order	10/28/97

## Summary of Administrative Penalties

The following administrative penalties are due:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
Marvin Kruse d/b/a K & C Feeds (Luana)	UT	300	12-01-92
Don Grell d/b/a Dodger Enterprises (Ft. Dodge)	AQ	10,000	2-16-93
Duane Pospisil d/b/a Duane's Service (Lisbon)	UT	1,000	5-04-93
Melvin Foubert d/b/a Mel's Repair Service (What Cheer)	UT	400	12-13-93
Stan Simmer d/b/a Tire City (Des Moines)	UT	600	12-21-93
Leland Koster and Jim Koster (Alexander)	UT	350	6-11-94

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Coralville Lake Terrace Assn. (North Liberty)	WS	550	9-01-94
Bill Dettman d/b/a Dettman Oil Co. (Fonda)	UT	2,800	9-15-94
Hidden Valley Mobile Home Court (Washington Co.)	WS	200	10-22-94
*Dale Hall d/b/a Hall Oil Co. (Des Moines)	UT	250	11-15-94
William R. Hennessey & Son, Inc. (Cedar Rapids)	UT	2,670	12-06-94
Donald K. Schmidt (Cedar Rapids)	UT	3,000	12-27-94
Collier Oil Co.; Clark Concrete Co. (Onawa)	UT	3,300	1-22-95
Rock Falls Lounge (Rock Falls)	WS	1,500	6-12-95
Lake Vista Improvement Assn., Inc. (Solon)	WS	200	6-14-95
Fremont County Sanitary Landfill (Fremont Co.)	SW	5,000	7-05-95
David A. Dohlman d/b/a Dave's Conoco (Dumont)	UT	2,300	7-18-95
M & L Service; Loyal Dorr; Mark Courtney (Guthrie Center)	UT	1,000	8-30-95
Norman Klynasma d/b/a OK One Stop Service (Hospers)	UT	2,000	9-01-95
Carter Lake, City of	WS	200	10-25-95
Searsboro, City of	WW	2,500	11-08-95
Economy Solar Corp. (Monticello)	AQ	7,500	11-25-95
Elery Fry; Allen Fry; Becky Sandeen (Monroe Co.)	SW	6,000	1-20-96
Patrick McCoy (Keokuk Co.)	AQ/SW	2,000	2-10-96
Cheryl Straughn d/b/a Cher's Mini Mart (Chapin)	UT	600	2-21-96
Dennis Sharkey d/b/a Sharkey Bldg. Wrecking (Dubuque)	AQ	2,000	3-11-96
David Kramer (Camanche)	UT	600	5-03-96
Latimer, City of	WS	150	5-03-96
Ainsworth, City of	WS	150	5-03-96
McClelland Bar & Grill (Council Bluffs)	WS	100	5-06-96
Paul L. Dunkel (Delaware Co.)	SW	1,500	6-27-96
*Orrie's Supper Club, Inc. (Hudson)	WS	650	7-15-96
Plantation Village Mobile Home Park (Burlington)	WW	1,000	8-01-96
Dennis L. Mattison (Winnebago Co.)	AQ/SW	600	9-03-96
Howard Victor and Wanda Victor (Des Moines)	UT	10,000	10-21-96
Riverside Lutheran Bible Camp (Story City)	WS	500	10-28-96
Wunschel Oil, et.al. (Battle Creek)	UT	4,400	12-23-96
Gassman's MHP & Spruce Harbor Inn (Dubuque)	WS	4,500	12-26-96
Mark Anderson d/b/a Westside Park for Mobile Homes; M A, Inc. (Burlington)	AQ/SW	1,000	1-03-97
*Ken Frese (Keokuk Co.)	AQ/SW	175	1-09-97
J.F.V. Corporation; Frank Hawk; Sharon Hawk (Prole)	UT	600	2-19-97
Hofer's Danceland Ballroom (Walford)	WS	3,188	4-19-97
Ronald Slocum; Tammy Lynn Determan (Marshall Co.)	SW	10,000	5-24-97
Tom Ashland (Clear Lake)	UT	5,300	6-04-97
*Vernon Kinsinger d/b/a K & K Sanitation (Washington Co.)	AQ/SW	9,530	6-05-97

Robert Jeff White (Dallas Co.)	AQ/SW	10,000	7-14-97
Fibred-Iowa, Inc. (Iowa Falls)	AQ	2,000	7-29-97
Sandra Gebhardt (Clayton Co.)	FP	2,000	9-28-97
Roy E. Hawkins (Newton)	SW	1,000	10-22-97
Wareco System of Iowa (Coralville)	UT	200	10-24-97
*#Marlin Brenneman (Iowa Co.)	WW	500	12-01-97
*#John Adam (Keokuk Co.)	WW	5,000	3-15-98
South Park Mobile Home Park (Iowa Falls)	WW	1,000	1-04-98
West Union Cooperative Company (West Union)	WW/HC	10,000	1-09-98
Emergy Gingerich d/b/a Gingerich Well & Pump Service, Kalona	WW	1,100	1-07-98
# Northwest Iowa Cooperative (O'Brien Co.)	WW	3,000	-----
# Ronald Juergens (Carroll Co.)	WW	3,000	1-23-98
# Alan Rasmussen (Webster Co.)	WW	500	1-21-98
David McClellan (Hardin Co.)	SW/AQ	500	1-23-98
Milton, City of	SW/AQ	1,000	1-23-98
Deer Ridge Estates (Ottumwa)	WS	100	-----
<b>TOTAL</b>		<b>153,063</b>	

The following cases have been referred to the Attorney General:

Donald P. Ervin (Ft. Dodge)	SW	669	3-05-90
Robert and Sally Shelley (Guthrie Center)	SW	1,000	3-04-91
Vernus Wunschel d/b/a Wunschel Oil (Ida Grove)	UT	300	1-12-92
Verna and Don Reed; Andrea Silsby (Union Co.)	SW	1,000	4-07-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	3,070	10-11-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	600	10-11-94
Trust Trucking Corp.; Jim and Brenda Huyser (Lovilia)	UT	840	11-01-94
Paul Underwood d/b/a Underwood Excavating (Cedar Rapids)	AQ	4,000	3-24-95
Oscar Hahn (Solon)	AQ/SW	2,000	8-29-95
Randy Ballard (Fayette Co.)	FP	2,000	5-30-95
ESCORP Associates Ltd.; Arnold Olson (Cedar Rapids)	AQ	10,000	7-09-95
Brian McKernan d/b/a Hickory Grove MHP (Story Co.)	WW	1,000	4-15-96
Long Branch Tavern (Monmouth)	WS	100	5-01-96
Long Branch Tavern (Monmouth)	WS	6,400	10-28-96
Long Branch Tavern (Monmouth)	WS	200	3-18-97
*R.V. Hopkins, Inc. (Davenport)	AQ	10,000	11-15-95
Dean Williams d/b/a Williams Oil Co. (Stuart)	UT	4,800	
*Home Asbestos & Lead Abatement Services (Johnston)	AQ	350	7-02-94
Carpenter Bar & Grill (Carpenter)	WS	725	9-27-96
<b>TOTAL</b>		<b>49,054</b>	

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The following administrative penalties have been appealed:

NAME/LOCATION	PROGRAM	AMOUNT
Joe Eggers, Jr., et.al. (St. Ansgar)	SW	1,000
Hickory Hollow Water Co. (Ankeny)	WS	400
Wayne Transportation, Inc. (Greene)	WW	1,000
Mulgrew Oil Company (Dubuque)	HC	500
Charles Kerr (Sloan)	UT	600
Chickasaw Co. SLF, et.al. (Chickasaw Co.)	SW	1,000
Plymouth Cooperative Oil Co. (Hinton)	WW	1,000
Dean Hoeness d/b/a Hoeness & Sons (Winterset)	UT	300
King's Terrace Mobile Home Court (Ames)	WW	500
ITWC, Inc. (Malcom)	AQ	1,000
Frank Hulshizer (Benton Co.)	SW	500
LeMars, City of	WW	5,000
Crane Co. d/b/a Crane Valves (Washington Co.)	SW	500
Donald Udell (Plymouth Co.)	SW	1,000
Oakwood Park Water, Inc. (Ankeny)	WS	1,000
U.S. Dept. of Defense (Sioux City)	UT	5,720
Waverly Gravel & Ready-Mix aka Shell Rock Sand and Gravel (Shell Rock)	AQ	3,000
Coastal Mart, Inc.-Store #1081 (Davenport)	UT	5,320
HiWay Texaco, Ltd.; Roger Kanne; Rick Kanne (Bagley)	UT	5,000
Joseph L. Ranker; Daryl Hollingsworth (Indianola)	UT	4,000
Tom Wiseman (Sheffield)	UT	3,500
Karl and Thelma Boylan d/b/a Boylan's Service (Northboro)	UT	1,800
William Jensen d/b/a B & B Tire & Oil Co. (Avoca)	UT	2,300
Crabtree Lake Resort (Rhodes)	WW	5,400
Elmer R. Faust d/b/a Faust Garage & Grocery (Delaware)	UT	2,300
American Coals Corporation - Site #5 (Bussey)	AQ/SW	10,000
H.E.W., Inc. aka Hazardous Environmental Wastes, Inc. aka Algona Roofing & Insulation, Inc. (Algona)	AQ	5,000
Bankston, City of	WS	550
Wunschel Oil, et.al. (Ida Grove)	UT	10,000
Jim Foust (Indianola)	SW	2,175
Titan Wheel International, Inc. (Walcott)	WW	10,000
Ronald Sizemore and Mark Murphy (Eldora)	UT	3,200
Keith Owens and Howard Maurer (Wilton)	UT	3,100
Tom Babinat d/b/a Tom's Car Care (Grundy Center)	UT	3,600
Richard Beckett (Villisca)	UT	1,300
Henry and Randy Krohn d/b/a Krohn Const. (Waukee)	AQ/SW	4,000
James and Roxann Neneman; J&R Mini Mart (Council Bluffs)	UT	3,900
Simonsen Industries, Inc. (Cherokee Co.)	WW	5,000
Sale-R-Villa Const., Inc. (Perry)	AQ	10,000
Dennis Malone & Joanne Malone (Morning Sun)	UT	600
Economy Solar Corp.; Jeffrey C. Intlekofer (Cedar Rapids)	AQ	10,000
Marty Feinberg d/b/a Feinberg Scrap Iron; Betty Feinberg; F & F Metals (Lee Co.)	HC/WW	10,000
Earth Media Technologies, Inc. (Polk Co.)	SW	3,000

Pilot Oil Corporation (Walcott)	WW/UT	5,000
Leonard C. Page (Adams Co.)	SW	3,000
Boyer Valley Company (Arion)	WW	8,000
Wilbur McNear; Gilbert Persinger (Smithland)	UT	2,500
Donald Krieger (Terrill)	UT	600
Donald J. Foreman d/b/a D&R Feedlots (Woodbury Co.)	WW	3,000
Wilbur McNear d/b/a McNear Oil Co. (Charter Oak)	UT	2,000
Holiday Mobile Lodge, Inc. (Johnson Co.)	AQ/SW	2,000
Shell Rock Products, Inc. (Butler Co.)	AQ/SW	10,000
E.L. Incorporated (Algona)	SW	5,000
Weber Construction, Inc. (Cascade)	AQ	4,000
Tri-County Bank & Trust (Cascade)	AQ	4,000
Jack Pinney Operations, Inc. (Sioux City)	AQ	4,000
Roy Burger (Gillette Grove)	UT	5,400
Spencer Municipal Hospital (Spencer)	AQ	3,000
Westside Park for Mobile Homes (Burlington)	WW	3,000
Climax Molybdenum Company (Ft. Madison)	HC/AQ	10,000
Clarence, City of	WW	3,000
Daryl & Karen Hollingsworth d/b/a Medora Store (Indianola)	UT	4,800
Hidden Valley Mobile Home Park (Washington)	WW	2,000
Markley Knock d/b/a Knock's Bldg. Supply (Parkersburg)	AQ/SW	2,000
Russell Stagg (Muscatine Co.)	AQ/SW	2,000
Obie's Hurstville Tap, Inc. (Maquoketa)	WS	100
Edward Bodensteiner (Des Moines)	UT	3,200
Dallas County Care Facility (Adel)	WW	2,500
Mount Joy Mobile Home Park (Davenport)	WW	2,000
Louisa-Muscatine Community School (Letts)	WS	500
Davenport Travel Plaza (Walcott)	WS	250
#C & I Eggs (Webster Co.)	WW	3,000
Vermeer Manufacturing Co. (Pella)	AQ	10,000
Gary Walker (Montgomery Co.)	AQ/SW	3,000
Haasco, Ltd. (Dubuque)	AQ	3,000
Site Services, Ltd. (Waterloo)	AQ	5,000
Winsor Oil Co., Inc.; Joyce Winsor (Vinton)	UT	1,500
Bernie Brauns d/b/a Brauns Waste Mgmt. (Muscatine Co.)	AQ/SW	10,000
Ron Rupe (Polk Co.)	SW	2,000
Richard L. Magdefrau (Washington Co.)	AQ/SW	2,000
Lamoni, City of	WW	1,000
Margaret and Gene Palmersheim d/b/a G & M Service Mart (Greeley)	UT	1,500
Dakota Mobile Home Park (Oxford)	WW	2,550
Waste Mgmt. & Design; Monfort, Inc. (Des Moines)	SW/WW	10,000
#Boomsma Egg Site #1; A.J. DeCoster (Wright Co.)	WW	1,000
Richard Sprague (Tripoli)	AQ/SW	5,000
Joseph Barragy; Tom Barragy; J & M Woodshavings, Inc. (Cerro Gordo Co.)	AQ/SW	4,000
Marvin Low d/b/a Low's DX (Toledo)	UT	10,000
Carroll, City of	WS	3,000
Todd L. Salow (Washington)	AQ/SW	5,000
Camp Golden Valley (Lockridge)	WW	5,700
Holliman LTD.; Terry Holliman (Hamburg)	SW/WW	10,000
Organic Technologies Corp.; Tim Danley; Ken Renfro (Warren Co.)	SW/WW	10,000

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Ralene Hawkins d/b/a R.J. Express Salvage & Demolition; Clara Lindstadt (Des Moines Co.)	AQ/SW	1,000
#Rod Bice (Boone Co.)	WW	500
Bellevue Golf Club, Inc. (Bellevue)	WS	300
Cliff's Place, Inc. (Waverly)	WS	1,500
Craig Burgin (Indianola)	UT	600
Wayne Johnson (Rockford)	AQ/SW	1,000
Sylvan Acres (Janesville)	WS	1,000
Paul Behounek; Todd Behounek (Tama Co.)	AQ/SW	7,100
Delaware County Landfill, Inc.	SW	5,000
Brittany Estates Addition (Manchester)	WS	4,000
Carroll Etchen (Clear Lake)	UT	10,000
Kruger Seed Co. (Dike)	AQ	3,000
Al DeCarlo Demolition Co. (Des Moines)	AQ	5,000
Ritchie Industries, Inc. (Conrad)	AQ	3,000
Bob Luke d/b/a D & R Tree Service (Washington)	AQ/SW	1,000
Country Pumpkin (Deloit)	WS	500
Robert Frees; Elizabeth Mathes (Washington Co.)	SW	1,000
Tire-Tech Environmental Systems, Inc. (Muscatine)	SW/WW	2,500
Iowa Waste Systems, Inc.; Fayette Co. Solid Waste Comm.	SW	10,000
Advanced Technologies Corp. (Waterloo)	AQ	7,500
Biovance Technologies, Inc. (Oskaloosa)	AQ	4,000
Stellar Industries, Inc. (Garner)	AQ	3,000
Joyce Wagner; Bruce Manthe d/b/a Wagner Truck Wash (Merrill)	WW	5,000
Iowa Mold Tooling Co., Inc. (Garner)	AQ	5,000
Keokuk Steel Castings Co., Inc. (Keokuk)	AQ	5,000
Walnut Grove Water Company (Davenport)	WS	2,500
Big Ten Mart/Truck Stop (Lowden)	WS	2,500
North Central Cooperative (Clarion)	WW/HC	2,000
# Iowa Select Farms, L.P. (Hardin Co.)	WW	1,500
Troy Elevator, Inc. (Troy)	WW/HC	4,000
Iowa Realty Co., Inc.; Easter Lake Estates (Polk Co.)	WW	6,000
<b>TOTAL</b>		<b>460,165</b>

The following administrative penalties were paid last month:

NAME/LOCATION	PROGRAM	AMOUNT
Crestwood Acres; Mid County Water, Inc. (Toddville)	WS	200
C & C Ltd. d/b/a Country View MHP (Denison)	WS	475
Meadow Knolls Addition (Marion)	WS	100
*#Marlin Brenneman (Iowa Co.)	WW	500
Scenic View Estates (Decorah)	WS	137
Rodney, City of	WS	100
Bill Shirbroun d/b/a Was Broken Pallet (Webster Co.)	AQ/SW	100
Thurman, City of	WR	50
Ballard Golf & Country Club (Story Co.)	WR	100
<b>TOTAL</b>		<b>1,762</b>



**Attorney General Referrals  
December 1, 1997**

Name, Location and Region Number	Program	Alleged Violation	DNR Action	New or Updated Status	Date
Advanced Technologies Corp. Iowa City (6)	Air Quality	Asbestos	Referred to Attorney General	Referred	6/20/97
Ballard, Randy Fayette Co. (1)	Flood Plain	Construction Without Permit	Order/Penalty	Referred	5/29/96
Buringrud, Mark d/b/a Carpenter Bar and Grill Carpenter NEW	(2) Drinking Water	Monitoring/ Reporting- Bacteria, Nitrate	Order/Penalty	Referred	11/17/97
DeCoster, A.J. Wright Co. (2)	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Petition Filed Defendant's Pre-Answer Motions Filed State's Resistance Filed Order Denying Defendant's Motion Defendant's Motion for Separate Trials State's Resistance Filed Defendant's Answer Defendant's Reply to Resistance State's Supplement to Resistance State Brief Hearing on Motion for Separate Trials Order Denying Defendant's Motion Defendant's Motion to Compel State's Motion to Extend Pleadings Hearing Order Denying Defendant's Motion Order Granting State's Motion Defendants Motion for Reconsideration Order Denying Defendant's Motion State's Motion to Compel Hearing Order Granting State's Motion Trial Closing Arguments Post Trial Briefs Ruling (\$59,000/Civil) Defendant 179(b) Motion Defendant's Notice of Appeal Defendant's Brief Filed Defendant's Amended Brief Filed	7/17/95 1/23/96 3/06/96 3/27/96 4/12/96 4/19/96 4/29/96 5/01/96 5/06/96 5/30/96 5/31/96 6/03/96 6/28/96 10/03/96 10/15/96 10/21/96 10/28/96 10/28/96 11/06/96 11/21/96 11/27/96 12/20/96 12/20/96 1/28/97- 2/06/97 2/11/97 2/21/97 3/05/97 3/28/97 4/04/97 9/05/97 9/24/97
DeCoster, A.J. Nursery Unit #3 Wright Co. (2)	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Petition Filed Consolidated With Sow Unit #1 (See Below)	8/19/96 11/25/96 4/28/97
DeCoster, Austin J.			Referred	to Referred	1/22/97

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Sow Unit #1 (2)	Wastewater	Prohibited Discharge	Attorney General	Petition Filed	4/24/97
				State's Motion to Change Venue	4/28/97
				State's Motion to Consolidate	4/28/97
				Order Granting Motions	4/28/97
				Amended & Substituted Petition Filed	5/19/97
				Trial Date	9/16/97
				Defendant's Motion for Partial Summary Judgment	7/14/97
				State's Resistance Filed	7/31/97
				State's Motion for Partial Summary Judgment	8/04/97
				Hearing on Defendant's Motion for Partial Summary Judgment	8/11/97
				Defendant's Resistance to State's Motion for Partial Summary Judgment	8/19/97
				Hearing on State's Motion for Partial Summary Judgment	8/25/97
				Ruling Denying Defendant's Motion for Partial Summary Judgment	9/02/97
				Ruling Granting State's Motion for Partial Summary Judgment Trial	9/04/97 9/16/97 - 9/18/97
DeCoster, Austin J. Sow Unit #1; Nursery Unit #7 Wright Co. (2)	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	6/20/97
DeCoster, Austin J. Nursery Unit #4 Wright Co. (2)	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	8/18/97
Economy Solar Corp. Ft. Madison (6)	Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed Trial Date Ruling (\$1,600/Civil & Injunction) Notice of Appeal Voluntary Dismissal	3/21/94 8/29/94 11/06/95 11/30/95 1/03/96 4/11/96
Economy Solar Corp./Central Community School DeWitt (6)	Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed	7/17/95 1/03/97
Economy Solar Corp. Cedar Rapids (1)	Air Quality	Penalty Collection	Order/Penalty	Referred	6/17/96
ESCORP/Cryotech Ft. Madison (1)	Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed	7/17/95 4/11/97
ESCORP Associates, Ltd; Arnold Olson Cedar Rapids (1)	Air Quality	Asbestos	Order/Penalty	Referred	9/16/96

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Hahn, Oscar Solon (6)	Air Quality Solid Waste	Open Burning Illegal Disposal	Order/Penalty	Referred Petition Filed Entry of Default	12/18/95 4/18/96 11/01/96
Home Asbestos & Lead Abatement Services; Robert G. Condon West Des Moines (5)	Air Quality	Asbestos	Order/Penalty	Referred	10/20/97
Humiston, Fred d/b/a Cedar River Trailer Park Letts (6)	Drinking Water	MCL-Nitrate	Referred to Attorney General	Referred	9/16/96
Huyser, James; Trust Trucking Lovilia (5)	Underground Tank	Site Assessment	Referred to Attorney General	Referred Petition Filed Dismissed for Lack of Service Bankruptcy Petition Filed	11/21/94 4/18/96 9/20/96 9/20/96
Larson, Daryl Clinton Co. (6)	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	10/20/97
Martinez, Vincent d/b/a Martinez Sewer Service Davenport (6)	Hazardous Condition	Remedial Action	Order/Penalty	Referred Petition Filed Partial Default Judgment (Injunction)	2/17/92 12/21/92 10/11/94
McKernan, Brian d/b/a Hickory Grove Mobile Home Park Roland (5)	Wastewater	Discharge Limits; Monitoring & Reporting	Order/Penalty	Referred	1/22/97
Orrie's Supper Club, Inc. Hudson (1)	Drinking Water	Monitoring/Reporting; Lead & Copper	Order/Penalty	Referred	10/16/95
Owens & Owens Realty, Inc. Wilton (6)	Underground Tank	DNR Defendant	Defense	Petition Filed Answer Filed	3/29/96 4/19/96
Papetti's of Iowa Food Products, Inc. Taylor Co. (4)	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	1/22/97
Postville Pork Postville (1)	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Petition Filed	5/20/96 7/09/97
Reed, Verna and Don; Andrea				Referred	6/20/94

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Silsby Union Co. (4)	Solid Waste	Illegal Disposal	Order/Penalty	Petition Filed Entry of Default	8/10/94 12/12/94
Relative, Inc.; Doug Smuck Des Moines (5)	Underground Tank	Insurance Violation	Order/Penalty	Referred Petition Filed Order Granting Default Judgment	10/17/94 5/12/95 11/26/96
R.V. Hopkins Davenport (6)	Air Quality	Emission Violations	Order/Penalty	Referred	5/21/97
Schoenberr, R.B. d/b/a Long Branch Tavern Monmouth (1)	Drinking Water	Permit Renewal	Orders/Penalties	Referred	6/20/97
Stickle Farms, Inc. Linn Co. (1)	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	4/21/97
Tracy, Ronald d/b/a TRACE, Inc. Howard Co. (1) NEW	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	11/17/97
Underwood, Paul d/b/a Underwood Excavating and Demolition Cedar Rapids (1)	Air Quality	Asbestos	Order/Penalty	Referred Motion for Judgment	5/15/95 8/15/96
Williams, Dean d/b/a Williams Oil Co. Stuart (4)	Underground Tank	Site Assessment	Order/Penalty	Referred	10/20/97

## Contested Cases

Date Received	Name of Case	Action Appealed	Program	Assigned To	Status
1-23-86	Oelwein Soil Service	Admin. Order	WW	Murphy	Hearing continued; additional testing being done.
6-08-89	Shaver Road Investments	Site Registry	HW	Kennedy	New draft consent order issued to company for approval.
6-08-89	Hawkeye Rubber Mfg. Co.	Site Registry	HW	Kennedy	New draft consent order issued to company for approval.
6-08-89	Lehigh Portland Cement Co.	Site Registry	HW	Murphy	Hearing continued. Discovery initiated.
11-03-89	Bridgestone/Firestone, Inc.	Site Registry	HC	Murphy	Hearing continued pending negotiations. Settlement proposed 8/96.
5-08-90	Texaco Inc./Chemplex Co. Site	Site Registry	HW	-----	Settlement proposed.
5-14-90	Alter Trading Corp. (Council Bluffs)	Admin. Order	SW	Kennedy	Permit issued. District court suit dismissed. Field Office overseeing
6-20-90	Des Moines, City of	NPDES Permit Cond.	WW	Hansen	EPD met with City to resolve appeal issues. Follow-up with EPD
7-02-90	Keokuk Savings Bank and Trust; Keokuk Coal	Site Registry	HW	-----	Hearing continued.
7-30-90	Key City Coal Gas Site; and Howard Pixler	Site Registry	HW	-----	Decision appealed (Pixler).
8-01-90	J.I. Case Company	Site Registry	HW	Preziosi	Hearing continued indefinitely pending cleanup of neighboring site.
10-15-90	Westside General Store Corp.	Admin. Order	UT	Womson	Evaluating inability to pay - UST fund eligibility by county. County
12-27-90	McAtee Tire Service, Inc.	Admin. Order	SW	Kennedy	Amended order issued 1/11/96.

1-07-91	Joe E. Eggers, Jr.; Joe and Mary Eggers	Admin. Order/Penalty	SW	Kennedy	Hearing continued. Clean-up continuing slowly due to illness.
5-20-91	Great Rivers Coop-Lockridge	Site Registry	HC	Murphy	Settlement proposed.
9-25-91	Archer Daniels Midland	Admin. Order	SW	Kennedy	DNR engineers reviewing documents.
1-17-92	Hickory Hollow Water Co.	Admin. Order/Penalty	WS	Hansen	Settlement offer to WS. Counter offer 7/13/93. Dept. response on
1-30-92	Center Oil Co., Inc.	Admin. Order	HC	Murphy	Negotiating before filing.
4-09-92	Wayne Transports, Inc.	Admin. Order/Penalty	WW	Murphy	Negotiating before filing.
4-15-92	Mulgrew Oil Co.	Admin. Order/Penalty	HC	Womson	Settlement letter sent 8/31/94. SCR completed. Finalizing
4-24-92	Charles A. Kerr	Admin. Order/Penalty	UT	Womson	<del>Financial inability claimed. Warning letter sent 1/25/95. No response.</del>
5-05-92	Plymouth Cooperative Oil Co.	Admin. Order/Penalty	WW	Murphy	Negotiating before filing.
5-12-92	Paris & Sons, Inc.	Site Registry	HC	Murphy	Negotiating before filing.
5-27-92	Beckett Chevrolet-Olds	Admin. Order	UT	Womson	Financial inability claimed. Claimant completing financial
6-23-92	Chickasaw County Board of Supervisors	Admin. Order/Penalty	SW	Kennedy	County to include closing in FY 1997 budget. Meeting held 8/7/97.
8-24-92	Dean Hoeness d/b/a Hoeness & Sons	Admin. Order/Penalty	UT	Womson	Financial inability claimed. Insufficient documentation. On DNR
9-21-92	ITWC	Admin. Order/Penalty	AQ	Preziosi	Settlement close. Negotiating penalty.
9-22-92	King's Terrace MHP	Admin. Order/Penalty	WW	Hansen	8/94-Letter to facility regarding resolution of appeal. Follow-up letter
11-16-92	Frank Hulshizer	Admin. Order/Penalty	SW	Kennedy	Amended order issued 1/11/96.
12-14-92	Quantum	Permit Conditions	WW	Hansen	3/30/93 Dept. settlement offer made. 5/03/93 response from
4-05-93	Mapleton, City of	WW Operator Certification	WW	Hansen	Under review by EPD. Appeal discussion with EPD staff.
4-12-93	LeMars, City of	Admin. Order/Penalty	WW	Hansen	Construction permit issued. Schedule submitted by City for
4-21-93	Donald Udell	Admin. Order/Penalty	SW	Kennedy	Clean-up completed. Penalty settlement due.
6-21-93	Jacobs Energy Corp., Inc.	Permit Denial	AQ	Preziosi	Hearing continued. Meeting held. Settlement close.
7-06-93	Dennis E. Good	Admin. Order	UT	Womson	Compliance initiated 12/23/96.
7-09-93	Oakwood Park Water, Inc.	Admin. Order/Penalty	WS	Hansen	Construction permit issued 2/94. Facility to be installed by 11/30/94.
7-20-93	Valley Restaurant/Sierp Oil; Mary & Carl Sierp;	Admin. Order	UT	Womson	Settlement expected. SCR submitted. Revision required under
7-20-93	U.S. Dept. of Defense	Admin. Order/Penalty	UT	Womson	SCRs on the site and several others in Sioux City under review. SCRs
11-16-93	Iowa Southern Utilities	Permit Conditions	AQ	Preziosi	8/12/97 - Appeal being reviewed in context of Title V application.
12-23-93	Waverly Gravel & Ready-Mix aka Shell Rock	Admin. Order/Penalty	AQ	Preziosi	Negotiating penalty. Settlement close.
1-27-94	Archer-Daniels-Midland	Permit Conditions	AQ	Preziosi	Negotiating before filing.
2-28-94	Coastal Mart - Davenport	Admin. Order/Penalty	UT	Womson	Deficient SCR. Letter sent. Penalty on appeal.
3-03-94	Burlington Northern Railroad	Tax Certification	WW	Hansen	3/96 - Letter to company regarding appeal. Response requested by
5-10-94	Dennis Malone; Joanne Malone	Admin. Order/Penalty	UT	Womson	Untimely appeal. Compliance 3/97. Negotiating penalty.
5-27-94	Joseph L. Ranker; Daryl Hollingsworth	Admin. Order/Penalty	UT	Womson	Tanks closed. Property sold.
6-15-94	Lakeview Heights	Permit Conditions	WS	Hansen	Facility proposal under review by WS. DNR response to appeal -
7-12-94	Tom Wiseman	Admin. Order/Penalty	UT	Womson	Appeal untimely. Follow-up letter sent. Fund eligible. Tier I initiated.
8-12-94	Karl and Thelma Boylan d/b/a Boylan's Service	Admin. Order/Penalty	UT	Womson	Inability to pay. Failed to return required documentation. Letter sent
8-29-94	B and B Tire and Oil	Admin. Order/Penalty	UT	Womson	SCR accepted. Letter sent offering penalty negotiations 8/26/96. Free
9-01-94	Elmer R. Faust d/b/a Faust Garage & Grocery	Admin. Order/Penalty	UT	Womson	SCR accepted - negotiating penalty.
9-02-94	Crabtree Lake Resort	Admin. Order/Penalty	WW	Hansen	Facility in compliance.
9-06-94	HEW, inc.	Admin. Order/Penalty	AQ	Preziosi	3/1/96 - Amended order to be issued.
9-09-94	American Coals Corp., Site 5 (Bussey)	Admin. Order/Penalty	SW/AQ	Kennedy	Bankruptcy filed. Phone conversation regarding closure 8/21/97.
9-15-94	Bankston	Admin. Order/Penalty	WS	Hansen	1/95 - Information from City. Compliance initiated. Respond to City
9-16-94	Wunschel Oil Co.; Vernus Wunschel;	Admin. Order/Penalty	UT	Womson	Consent order. SCR received. Revisions to SCR required - overdue.
9-26-94	James D. Foust	Admin. Order/Penalty	SW	Kennedy	Hearing continued by ALJ because of bankruptcy.
10-07-94	Titan Wheel International	Admin. Order/Penalty	WW	Hansen	Revised BMR report submitted/reviewed by WW Permits. Letter to
10-19-94	Ronald Sizemore; Mark Murphy	Admin. Order/Penalty	UT	Womson	Inability to pay documented. County took tax deed. Contact
10-31-94	Owens & Owens Realty, Inc.; Keith Owens;	Admin. Order/Penalty	UT	Womson	District Court for judicial review. Fund eligible. Compliance
11-14-94	Tom Babinat d/b/a Tom's Car Care	Admin. Order/Penalty	UT	Womson	Inability to pay - requested documentation -- no response.
11-28-94	Richard Beckett	Admin. Order/Penalty	UT	Womson	Referral to UST Fund. Follow-up - 3/96.
12-14-94	Campbell Clean-Up Service	Permit Denial	AQ	Preziosi	Negotiating before filing.

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1-10-95	Steamboat Rock	Admin. Order	WS	Hansen	2/95 - Settlement offer by City and response by Dept. 4/95 - Dept.
1-11-95	Henry and Randy Krohn d/b/a Krohn	Admin. Order/Penalty	AQ/SW	Kennedy	Settlement offer made. FO rejected offer. Phone conversation
1-13-95	James and Roxann Neneman	Admin. Order/Penalty	UT	Wornson	Inability to pay. Forms sent. No response. Follow-up - 3/96. 1/97 -
1-13-95	Simonsen Industries, Inc.	Admin. Order/Penalty	WW	Hansen	2/28/95 - Submittal by facility's engineer regarding land application
2-23-95	Lehigh Portland Cement	Permit Conditions	WW	Hansen	Informal settlement meeting held on 6/96. Facility to provide status
2-27-95	Sale-R-Villa Construction	Admin. Order/Penalty	AQ	Preziosi	Hearing set for 11/24/97.
3-23-95	American Coals Corp.	Admin. Order	SW	Kennedy	In bankruptcy. Phone conversation 8/21/97 regarding closure. Phone
4-13-95	The Weitz Corp.; Barton Solvents, Inc.	Admin. Order	HC	Kennedy	Remediation plan received 5/27/96.
5-05-95	C & O Recycling Enterprises; Douglas W.	Permit Denial	AQ	Preziosi	Negotiating before filing.
5-25-95	Marty Feinberg d/b/a Feinberg Scrap Iron; Betty	Admin. Order/Penalty	HC/WW	Kennedy	Hearing continued. Clean-up continuing.
5-25-95	E.I. DuPont DeNemours (95-A-133)	Permit Conditions	AQ	Preziosi	Awaiting engineering evaluation.
5-30-95	Earth Media Technologies	Admin. Order/Penalty	SW	Kennedy	In the process of clean-up.
5-31-95	E.I. DuPont DeNemours (91-A-266 thru 91-A-	Permit Conditions	AQ	Preziosi	Awaiting engineering evaluation.
6-09-95	Don Peterson d/b/a Peterson Backhoe	Admin. Order/Penalty	AQ	Preziosi	Settled. Awaiting final penalty payment. Sent to AG for penalty
6-16-95	Pilot Oil Corporation	Admin. Order/Penalty	WW/UT	Murphy	Site clean-up proceeding.
6-20-95	Toledo, City of	Permit Conditions	WW	Hansen	WW permits to negotiate settlement. Status of negotiations requested
6-23-95	Leonard C. Page	Admin. Order/Penalty	SW	Kennedy	Penalty settlement due 8/30/97.
7-03-95	Donald J. Foreman d/b/a D & R Feedlots	Admin. Order/Penalty	WW	Hansen	Negotiating before filing.
7-05-95	Boyer Valley Co.	Admin. Order/Penalty	WW	Hansen	Informal meeting held for 6/7/96. Response from facility due
7-10-95	Donald Krieger	Admin. Order/Penalty	UT	Wornson	Tanks removed. Report due.
7-10-95	Gilbert Persinger	Admin. Order/Penalty	UT	Wornson	SCR received - rejected. Review progress.
7-13-95	Organic Technologies Corp.	Admin. Order	SW	Kennedy	Awaiting EPC decision.
7-28-95	Harold T. Knott; James C. Knott	Admin. Order	UT	Wornson	Compliance initiated. SCR under review.
8-01-95	Wilbur McNear d/b/a McNear Oil Co.	Admin. Order/Penalty	UT	Wornson	SCR not received as of 2/29/96.
8-18-95	Holiday Mobile Lodge, Inc.	Admin. Order/Penalty	AQ/SW	Kennedy	Appellant's attorney reply due 2/29/96.
8-18-95	Redmond Enterprises, Inc.	Admin. Order	UT	Wornson	Compliance initiated. Selected for innovative technology project.
8-24-95	Shell Rock Products, Inc.	Admin. Order/Penalty	AQ/SW	Kennedy	Settlement offer due 8/1/96.
9-06-95	Kraft Foods Inc.; Oscar Mayer Division	Variance Denial	WW	Hansen	Follow-up letter requesting information sent 1/12/96. Letter 2/19/96
9-20-95	FKI Industries, Inc.; Fairfield Aluminum, Inc.	Admin. Order	WW/HC	Murphy	Negotiating before filing.
10-09-95	E.L. Incorporated	Admin. Order/Penalty	SW	Kennedy	Appellant no longer accepting waste. Renewal permit may be
10-17-95	Tri-County Bank	Admin. Order/Penalty	AQ	Preziosi	Awaiting penalty payment.
10-17-95	Weber Construction, Inc.	Admin. Order/Penalty	AQ	Preziosi	Hearing held 4/25/97. Decision received in DNR's favor. Penalty
11-03-95	Jack Pinney Operations, Inc. aka Jack Pinney	Admin. Order/Penalty	AQ	Preziosi	Settled. Awaiting penalty payment.
12-12-95	Vernon Kinsinger; K & K Sanitation	Admin. Order/Penalty	AQ/SW	Kennedy	Clean-up progressing. Working with F.O. #6. Receiving penalty
12-27-95	Ag Processing, Inc.	Permit Denial	AQ	Preziosi	Negotiating before filing.
12-28-95	Site Services, Ltd.	Admin. Order/Penalty	AQ	Preziosi	Hearing set for 11/25/97.
12-29-95	Spencer Memorial Hospital	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
1-04-96	Catherine E. Meredith	Admin. Order	UT	Wornson	Compliance initiated by Atlantic Bottling. Comingled with coal tar.
1-08-96	Westside Park for Mobile Homes	Admin. Order/Penalty	WW	Hansen	Past due monthly monitoring reports submitted to FO 6. Facility
1-11-96	Climax Molybdenum Company	Admin. Order/Penalty	AQ/HC	Preziosi	Negotiating before filing.
1-12-96	Clarence, City of	Admin. Order/Penalty	WW	Hansen	1/96 - Facility inspected by FO 6. 9/96 letter from facility attorney
1-19-96	Bill Shirbroun d/b/a Was Broken Pallet	Admin. Order/Penalty	AQ/SW	Kennedy	Penalty received 11/17/97. Settled.
1-22-96	Daryl Hollingsworth and Karen Hollingsworth	Admin. Order/Penalty	UT	Wornson	Tanks removed. Property sold.
1-25-96	Hidden Valley Mobile Home Park	Admin. Order/Penalty	WW	Clark	Negotiating before filing.
1-25-96	Markley Knock d/b/a Knock's Building Supply	Admin. Order/Penalty	AQ/SW	Kennedy	Phone conference with attorney regarding settlement - due 8/30/97.
2-06-96	Russell Stagg	Admin. Order/Penalty	AQ/SW	Kennedy	Negotiating before filing.
3-04-96	Edward Bodensteiner	Admin. Order/Penalty	UT	Wornson	Hearing held 11/7/96. Brief submitted. ALJ decision received - no
3-11-96	Dallas County Care Facility	Admin. Order/Penalty	WW	Hansen	Facility inspected by FO. Now in compliance.
3-14-96	Laurel, City of	Admin. Order	WW	Hansen	Information submitted by city under review by WQ section..

3-14-96	Lamoni, City of	Admin. Order	WW	Hansen	Flow information requested from City's engineer. To be set for
3-19-96	Obie's West	Admin. Order	WS	Hansen	Under review by WS section.
3-22-96	Mt. Joy Mobile Home Park	Admin. Order/Penalty	WW	Hansen	3/25/96 Inspection by FO 6. Facility in compliance.
3-26-96	Louisa-Muscatine Community School	Admin. Order/Penalty	WS	Hansen	Negotiating before filing.
4-19-96	C & I Eggs	Admin. Order/Penalty	WW	Clark	Draft consent amendment sent for signature..
5-07-96	Lakeview Mobile Home Park	Admin. Order/Penalty	WW	Hansen	6/20/96 - informal meeting held. Facility to provide settlement offer
5-08-96	Vernier Mfg. Co. (96AQ06)	Admin. Order/Penalty	AQ	Preziosi	Drafting consent order.
5-14-96	Gary Lee Walker	Admin. Order/Penalty	AQ/SW	Kennedy	Negotiating before filing.
5-16-96	Grand Laboratories, Inc.	Permit Denial	WW	Hansen	Information received and reviewed by EPD. Settlement offer and
5-29-96	Haasco, Ltd.	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
6-07-96	Clow Valve Company	Permit Conditions	AQ	Preziosi	Negotiating before filing.
6-07-96	Koehring Cranes, Inc.	Open Burning Variance Denial	AQ	Preziosi	Negotiating before filing.
6-10-96	DeCoster Farms of Iowa (19 sites)	Admin. Order	WW	Clark	Proposed decision 11/25/96. Appealed to EPC 12/27/96.
6-10-96	DeCoster Farms of Iowa (5 sites)	Permit Denial	WR	Clark	Proposed decision 11/25/96. Appealed to EPC 12/27/96.
6-17-96	Winsor Oil Co., Inc. ; Joyce Winsor	Admin. Order/Penalty	UT	Wornson	Compliance initiated. CADR received/approved. Fund taking over
6-19-96	Appanoose Co. Sanitary Landfill	Permit Modification Denial	SW	Kennedy	Negotiating before filing.
6-25-96	Bernie Brauns d/b/a Brauns Waste Mgmt. &	Admin. Order/Penalty	AQ/SW	Kennedy	Negotiating before filing.
7/17/96	Richard L. Magdefrau	Admin. Order/Penalty	AQ/SW	Kennedy	Negotiating before filing.
8/01/96	DeCoster Farms of Iowa (Nursery Unit 7 -	Permit Denial	WW	Clark	Proposed decision 11/25/96. 12/27/96 - Appealed to EPC.
8/01/96	DeCoster Farms of Iowa (Boomsma Egg Site	Admin. Order/Penalty	WW	Clark	Hearing continued - date to be set.
8/09/96	Gene and Margaret Palmersheim d/b/a G & M	Admin. Order/Penalty	UT	Wornson	Negotiating before filing.
8/19/96	Capitol Oil Co., Inc. d/b/a Dakota Mobile Home	Admin. Order/Penalty	WW	Clark	Negotiating before filing.
8/23/96	Waste Management & Design (Monfort)	Admin. Order/Penalty	WW/SW	Kennedy	Settlement pending.
8/30/96	Howard Victor & Wanda Victor	Admin. Order/Penalty	UT	Wornson	Closed facility. Negotiating penalty.
9/04/96	Ag Processing, Inc./Sheldon Facility	Permit Denial	AQ	Preziosi	Negotiating before filing.
9/24/96	North Star Steel Iowa	Permit Denial	AQ	Preziosi	Negotiating before filing.
10/11/96	DeCoster Farms of Iowa (96-WW-32).	Admin. Order	WW	Clark	Hearing continued indefinitely.
10/17/96	DeCoster Farms of Iowa (Nursery Unit 3 -	Permit Revocation	WW	Clark	Hearing continued indefinitely.
10/28/96	Fischer Controls International	Permit Conditions	WW	Hansen	Negotiating before filing.
10/28/96	Holliman Ltd.	Admin. Order/Penalty	SW/WW	Murphy	Negotiating before filing.
11/01/96	Joseph Barragy and Tom Barroy d/b/a J & M	Admin. Order/Penalty	AQ/SW	Kennedy	Negotiating before filing..
11/05/96	Marvin Low d/b/a Low's DX	Admin. Order/Penalty	UT	Wornson	Tanks removed. Negotiating penalty.
11/07/96	Todd L. Salow	Admin. Order/Penalty	AQ/SW	Kennedy	Negotiating before filing.
11/08/96	Caseys General Stores, Inc.	Mean Time to Corrosion Failure	UT	Wornson	Settlement conference held 2/17/97.
11/08/96	Carroll, City of	Admin. Order/Penalty	WS	Hansen	Returned to compliance.
11/25/96	Camp Golden Valley	Admin. Order/Penalty	WW	Kennedy	Negotiating before filing.
12/02/96	Organic Technologies Corp.	Permit Denial	SW	Murphy	Proposed decision received 8/1/97; appealed. Affirmed by EPC
12/05/96	Organic Technologies Corp. -----91-SDP-02-	Admin. Order/Penalty Intended	SW	Murphy	Proposed decision received 8/1/97; appealed. Affirmed by EPC
1/02/97	Ruan Leasing Co., aka Ruan Transportation	Admin. Order	AQ	Preziosi	Negotiating before filing.
1/23/97	Rod Bice	Admin. Order/Penalty	WW	Clark	Draft consent amendment sent 10/16/97.
1/28/97	Ralene Hawkins d/b/a R.J. Express Salvage &	Admin. Order/Penalty	SW/AQ	Kennedy	Clean-up complete. Negotiating penalty.
2/07/97	Craig Burgin	Admin. Order/Penalty	UT	Wornson	Compliance complete. Negotiating penalty.
2/19/97	Cliff's Place, Inc.	Admin. Order/Penalty	WS	Hansen	Compliance initiated.
2/21/97	Farmland Foods, Inc. (Denison)	Permit Conditions	AQ	Preziosi	Negotiating before filing.
3/04/97	Wayne Johnson	Admin. Order/Penalty	SW/AQ	Kennedy	Negotiating before filing.
3/20/97	Sylvan Acres	Admin. Order/Penalty	WS	Hansen	Compliance initiated.
3/28/97	Paul Behounek; Todd Behounek	Admin. Order/Penalty	SW/AQ	Kennedy	Negotiating before filing.
4/07/97	AGP, Inc. (Ag Processing, Inc.)	Permit Conditions	AQ	Preziosi	Negotiating before filing.
4/10/97	Lehigh Portland Cement	PSD Permit Denial	AQ	Preziosi	Negotiating before filing..

5/07/97	Delaware County Landfill, Inc.	Admin. Order/Penalty	SW	Kennedy	Negotiating before filing.
5/16/97	Carroll Eichen	Admin. Order/Penalty	UT	Wornson	Negotiating before filing.
6/06/97	Al DeCarlo Demolition Co.	Admin. Order/Penalty	AQ	Preziosi	Settled. Awaiting penalty payment.
6/06/97	Carroll's Foods of the Midwest	Const. Permit Denial	WW	Clark	Negotiating before filing.
6/10/97	Kruger Seed Co.	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
6/16/97	Ritchie Industries, Inc.	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
6/17/97	Bob Luke d/b/a D & R Tree Service	Admin. Order/Penalty	AQ/SW	Kennedy	Negotiating before filing.
6/30/97	Linwood Mining and Minerals	Admin. Order	AQ	Preziosi	Negotiating before filing.
7/22/97	CIPCO	Construction Permit Conditions	AQ	Preziosi	Negotiating before filing.
7/22/97	Robert P. Frees; Elizabeth R. Mathes	Admin. Order/Penalty	SW	Kennedy	Negotiating before filing.
7/30/97	Country Pumpkin	Admin. Order/Penalty	WS	Hansen	Negotiating before filing.
7/31/97	Advanced Technologies Corp.	Admin. Order/Penalty	AQ	Preziosi	New case.
7/31/97	Brittany Estates Addition	Admin. Order/Penalty	WS	Hansen	To be set for hearing.
8/01/97	Dodger Enterprises Co., Tire Chop Division	Admin. Order	SW	Kennedy	Negotiating before filing.
8/05/97	Biovance Technologies	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
8/08/97	Tire-Tech Environmental Systems	Admin. Order/Penalty	SW/WW	Kennedy	Negotiating before filing.
8/08/97	Iowa Waste Systems, Inc.; Fayette Co. Solid	Admin. Order/Penalty	SW	Kennedy	Negotiating before filing.
8/15/97	Ralston Purina Co.	Permit Conditions (25 permits)	AQ	Preziosi	Negotiating before filing.
8/18/97	Stellar Industries Inc.	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
8/25/97	Joyce Wagner; Bruce Manthe d/b/a Wagner	Admin. Order/Penalty	WW	Murphy	Negotiating before filing.
9/10/97	Fred and Diane Miller	NPDES Permit Denial	WW	Hansen	Appeal dismissed by the Millers. Closed.
9/17/97	Keokuk Steel Castings	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
9/25/97	Iowa Mold Tooling Co., Inc.	Admin. Order/Penalty	AQ	Preziosi	Negotiating before filing.
9/26/97	Walnut Grove Water Co.	Admin. Order/Penalty	WS	Hansen	Under review by WS section.
10/6/97	North Central Cooperative	Admin. Order/Penalty	HC/WW	Murphy	Negotiating before filing.
10/6/97	Big-Ten Mart/Truck Stop	Admin. Order/Penalty	WS	Murphy	Negotiating before filing.
10/6/97	Holnam, Inc.	Permit Conditions	AQ	Preziosi	Negotiating before filing.
10/7/97	Ottumwa, City of	Variance Denial	WW	Hansen	Informal meeting held 11/13/97. City to submit proposal.
10/17/97	Iowa Select Farms, L.P.	Admin. Order/Penalty	WW	Clark	Negotiating before filing.
10/22/97	Lehigh Portland Cement Co.	Admin. Order	AQ	Preziosi	Negotiating before filing.
11/19/97	Troy Elevator, Inc.	Admin. Order/Penalty	WW/HC	Murphy	New case.
11/21/97	Iowa Realty - Easter Lake Estates	Admin. Order/Penalty	WW	Murphy	New case.

Mr. Stokes presented the monthly reports and materials from the recent Client Contact Group meeting.

### INFORMATIONAL ONLY

## SECTION 319 NONPOINT SOURCE POLLUTION CONTROL PROJECT CONTRACTS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

Commission approval is requested for five contracts for nonpoint source (NPS) pollution control projects. Although contracts with project sponsors are typically written for one year periods (e.g., three one-year contracts are written for a three year project), the Commission is being



asked to authorize contracting for the entire project at this time. By doing so, the Commission will not have to reauthorize yearly contracts for multi-year projects.

Funds for the contracts will be from the FY97 EPA Section 319 grant awarded to the Department which included money specifically for these projects. Funding from other state and federal programs will also be used to support activities of these projects.

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The project costs (in terms of Section 319 funds provided), contract duration, project descriptions, and the activities supported with Section 319 funds are provided below. Four of these projects involve contracting with the Division of Soil Conservation/Iowa Department of Agriculture and Land Stewardship, and the fifth is with the Iowa State University Extension Service.

**Department of Agriculture and Land Stewardship, Division of Soil Conservation (DSC)**

- **Wright County Manure and Ag Drainage Well Management Project – Wright and Humbolt Counties - \$268,692:** This three-year project will provide technical assistance to landowners in Wright and Humbolt Counties to address water quality impacts associated with animal manure management and agricultural drainage wells. The project will assist landowners in developing and implementing manure management plans for fields on which manure will be applied. In addition, the project will provide technical assistance to landowners required to close surface intakes, renovate well cisterns, and comply with other provisions of the new state agricultural drainage well legislation (Senate File 473). Contract funds will be used to support a project coordinator, a water quality monitoring program, and an information/education program.
- **Otter Creek Lake Water Quality Project – Tama County - \$80,850:** This three-year project will protect and improve the water quality of Otter Creek Lake. Project activities will focus on reducing the movement of sediment from eroding crop and pasture land and improving the management of commercial fertilizer and animal manure in the lake watershed. Planned activities include installation of manure management systems, implementation of nutrient and pest management, stabilization of drainageways, demonstration of intensive grazing systems, installation of sediment basins, and implementation of an information/education program. Contract funds will be used to support a project coordinator.
- **Lake Fisher Water Quality Project – Davis County - \$57,750:** This three-year project will protect and improve the water quality of Lake Fisher, which serves as the source of drinking water for the city of Bloomfield. Protection of the lake will be accomplished by reducing the movement of sediment, nutrients and pesticides into the lake. Animal manure systems and septic system upgrades will provide additional protection for the lake. Planned activities include installation of terraces, water and sediment basins, shoreline stabilization, alternative private sewage disposal systems, and implementation of an information/education program. Contract funds will be used to support a project coordinator and to provide financial incentives for alternative septic systems.

- **Minnehaha Creek Watershed Demonstration Project – Grundy County - \$156,335:** This three-year project will protect and improve the water quality of Minnehaha Creek as well as serve as a demonstration project for residents of Grundy and surrounding counties on steps they can take to protect water quality. Protection of the stream will be accomplished by demonstrating various best management practices which will reduce sediment, nutrient and chemical runoff from ag and urban areas. Planned activities will focus on demonstration of practices such as riparian buffer zones, grazing management, wetland restoration and enhancement, manure management systems, cover crop/no-till systems, sediment basins, grade stabilization structures, and streambank stabilization. Contract funds will be used to support a project coordinator and support the information/education component of the project.

#### **Iowa State University Extension Service (ISUE)**

- **Three Mile Lake Demonstration Watershed Project - \$77,058:** This is a two-year extension of an ongoing project to protect the water quality of Three Mile Lake by promoting voluntary adoption of refined crop and livestock management practices that reduce agricultural nonpoint source contributions to the lake. Contract funds will be used to support an extension communication specialist position, located at the Union County Extension office, to carry out the project activities. The communications specialist will work with project staff of other cooperating agencies and with ISUE water quality communications staff to disseminate information concerning agricultural nonpoint source pollution control activities conducted as part of the Demonstration Watershed Project. Additional project activities include development of bimonthly newsletters, brochures, self-guided field tours, news releases, and poster and slide presentations.

Mr. Stokes explained details of the five contracts and asked approval of the contracts for a three year period each.

*Motion was made by Charlotte Mohr to approve the Section 319 Nonpoint Source Pollution Control Project Contracts as presented. Seconded by Rita Venner. Motion carried unanimously.*

**APPROVED AS PRESENTED**

#### **GRANTS TO COUNTIES - FY 99, WELL TESTING, ABANDONMENT AND REHABILITATION**

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Commission will be asked to approve grants to 98 counties for well testing, abandonment and rehabilitation for SFY99. Grants will be \$21,500 per county for a total of \$2,107,000. These figures are based on the current unobligated balance in the Groundwater Fund agricultural management account and additional receipt of funds expected before the end of the fiscal year. This grant amount is less than SFY98 when the grant amounts were \$30,000 per county. One additional county is participating. Fremont County is the only county that does not participate.

The grant amount is less in SFY99 since the amount of carryover funds have nearly been eliminated. The SFY2000 grants are expected to be about \$15,000 per county. It is expected that funding in future years will remain close to this amount.

Ninety eight (98) applications were received for the grant program. No application was determined to be ineligible. The amount of the grant payments to the counties may vary from the grant awards based on the actual numbers of wells tested, plugged or renovated by each county. Final payment will be determined by actual performance. A single grant will be offered to each county for private water well testing, rehabilitation, and closure.

COUNTY NAME	NO	DESIGNATED AGENT	Well Plugging SFY						Water Well Grant FY99
			93	94	95	96	97	98	
Adair	1	Steve Patterson	X	X	X	X	X	X	X
Adams	2	Eldon Rike, P.E.	X	X	X	X	X	X	X
Allamakee	3	Laurie Moody	X	X	X	X	X	X	X
Appanoose	4	Bill Milani	X	X	X	X	X	X	X
Audubon	5	Steve Patterson	X	X	X	X	X	X	X
Benton	6	Marc Greenlee	X	X	X	X	X	X	X
Black Hawk	7	Mark Linda	X	X	X	X	X	X	X
Boone	8	John Munson	X	X	X	X	X	X	X
Bremer	9	Doug Bird	X	X	X	X	X	X	X
Buchanan	10	Ed Fitzgerald, P.E.	X	X	X	X	X	X	X
Buena Vista	11	Kim Johnson	X	X	X	X	X	X	X
Butler	12	Steve Busse	X	X	X	X	X	X	X
Calhoun	13	Keith Roos	X	X	X	X	X	X	X
Carroll	14	Carl Wilburn	X	X	X	X	X	X	X
Cass	15	Steve Patterson	X	X	X	X	X	X	X
Cedar	16	Phil LaRue	X	X	X	X	X	X	X
Cerro Gordo	17	Tom Reichard	X	X	X	X	X	X	X
Cherokee	18	Dean Shaffer	X	X	X	X	X	X	X
Chickasaw	19	Ken Rasing	X	X	X	X	X	X	X
Clarke	20	Allan Mathias				X	X	X	X
Clay	21	Randy Van Dyke	X	X	X	X	X	X	X
Clayton	22	Donna Metzger	X	X	X	X	X	X	X
Clinton	23	Bob Summers	X	X	X	X	X	X	X
Crawford	24	Carl Wilburn	X	X	X	X	X	X	X

Dallas	25	Terry Brooks				X	X	X	X
Davis	26	Donnie Herteen	X	X	X	X	X	X	X
Decatur	27	Keith Hinds					X	X	X
Delaware	28	Norman Wellman	X	X	X	X	X	X	X
Des Moines	29	Barb Baker	X	X	X	X	X	X	X
Dickinson	30	David Kohlhasse	X	X	X	X	X	X	X
Dubuque	31	Dr. Paul Buss	X	X	X	X	X	X	X
Emmet	32	Terry Reekers	X	X	X	X	X	X	X
Fayette	33	Lyle Jackson	X	X	X	X	X	X	X
Floyd	34	Mike Milligan	X	X	X	X	X	X	X
Franklin	35	Kermit Voy	X	X	X	X	X	X	X
Fremont	36	Charles Marker							INACTIVE
Greene	37	Tim Healy	X	X	X	X	X	X	X
Grundy	38	Sandra Harms	X	X	X	X	X	X	X
Guthrie	39	Steve Patterson	X	X	X	X	X	X	X
Hamilton	40	Amy Ratcliff	X	X	X	X	X	X	X
Hancock	41	Jack Bradley	X	X	X	X	X	X	X
Hardin	42	John Stonebraker, P.E.	X	X	X	X	X	X	X
Harrison	43	Lowell Clark	X	X	X	X	X	X	X
Henry	44	Jelen Remick	X	X	X	X	X	X	X
Howard	45	Tom Andersen, P.E.	X	X	X	X	X	X	X
Humboldt	46	Daryl Enfield	X	X	X	X	X	X	X
Ida	47	Richard Madsen	X	X	X	X	X	X	X
Iowa	48	Richard Heller	X	X	X	X	X	X	X
Jackson	49	Troy Jacobsen	X	X	X	X	X	X	X
Jasper	50	Sue Irving	X	X	X	X	X	X	X
Jefferson	51	Dick Barnes	X	X	X	X	X	X	X
Johnson	52	Kathryn Flora	X	X	X	X	X	X	X
Jones	53	Diane Casper	X	X	X	X	X	X	X
Keokuk	54	Chris Collicott, P.E.	X	X	X	X	X	X	X
Kossuth	55	Jack Bradley	X	X	X	X	X	X	X
Lee	56	Therese O'Brien	X	X	X	X	X	X	X
Linn	57	Tim Drahos	X	X	X	X	X	X	X
Louisa	58	Ron Johnston	X	X	X		X	X	X
Lucas	59	Bill Milani	X	X	X	X	X	X	X
Lyon	60	Jeff Williams, P.E.	X	X	X	X	X	X	X
Madison	61	Dave Oldham	X	X	X	X	X	X	X
Mahaska	62	Dennis Luebke	X	X	X	X	X	X	X
Marion	63	John McCoy	X	X	X	X	X	X	X
Marshall	64	John Kunc	X	X	X	X	X	X	X
Mills	65	Sheri Bowen	X	X	X	X	X	X	X
Mitchell	66	R/S Consultants	X	X	X	X	X	X	X
Monona	67	Jennifer Judd	X	X	X	X	X	X	X

Monroe	68	Donnie Herteen		X	X	X	X	X	X	X
Montgomery	69	Dave McFarland	X	X	X	X	X	X	X	X
Muscatine	70	Verne Fuegen	X	X	X	X	X	X	X	X
O'Brien	71	Donna Vander Veen	X	X	X	X	X	X	X	X
Osceola	72	Thomas Snyder, P.E.	X	X	X	X	X	X	X	X
Page	73	Donnie McCoy	X	X	X	X	X	X	X	X
Palo Alto	74	Denny Barrick	X	X	X	X	X	X	X	X
Plymouth	75	Gordon Greene	X	X	X	X	X	X	X	X
Pocahontas	76	Scott Phillips	X	X	X	X	X	X	X	X
Polk	77	Bobby Baker						X	X	X
Pottawattami	78	Kay Mocha	X	X	X	X	X	X	X	X
Poweshiek	79	Preston Shaw	X	X	X	X	X	X	X	X
Ringgold	80	John McFarland	X							X(new)
Sac	81	Charles Bettin	X	X	X	X	X	X	X	X
Scott	82	Larry Linnenbrink	X	X	X	X	X	X	X	X
Shelby	83	Joseph Stroehrer	X	X	X	X	X	X	X	X
Sioux	84	Doug Julius	X	X	X	X	X	X	X	X
Story	85	Don Nolting	X	X	X	X	X	X	X	X
Tama	86	Dr. Robert Ketter	X	X	X	X	X	X	X	X
Taylor	87	Jane Nitchals	X	X	X	X	X	X	X	X
Union	88	John Franklin	X	X	X	X	X	X	X	X
Van Buren	89	Jim Laughlin	X	X	X	X	X	X	X	X
Wapello	90	Tina Orman	X	X	X	X	X	X	X	X
Warren	91	Rick Wilson	X	X	X	X	X	X	X	X
Washington	92	Jeff Verboncoeur	X	X	X	X	X	X	X	X
Wayne	93	Don Petty	X	X	X	X	X	X	X	X
Webster	94	Gary Boerner	X	X	X	X	X	X	X	X
Winnebago	95	Jack Bradley	X	X	X	X	X	X	X	X
Winneshiek	96	Doug Groux	X	X	X	X	X	X	X	X
Woodbury	97	Charles Cipperly	X	X	X	X	X	X	X	X
Worth	98	Allen Venz	X	X	X	X	X	X	X	X
Wright	99	Sid Swenson	X	X	X	X	X	X	X	X

Mr. Stokes reviewed the proposed grants for 98 counties in the amount of \$21,500 each.

*Motion was made by Dean McWilliams to approve the Well Testing, Abandonment and Rehabilitation Grants to Counties for FY 1999. Seconded by Rozanne King.*

Gary Priebe asked if the department automatically sends each county \$21,500.

Mr. Stokes stated that the counties have to apply and could do so jointly with other counties. He expanded on the requirements connected with the grants and noted that they have up to \$21,500,

and are compensated on a reimbursement type basis as they provide the department with monthly reports.

*Vote on the motion carried unanimously.*

**APPROVED AS PRESENTED**

## **PROPOSED RULE--CHAPTER 92, STATE REVOLVING FUND (CWA)**

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Commission will be provided a copy of proposed revisions in the wastewater revolving fund rules for information only. In keeping with the original intent of the rules and the goals stated in Intended Use Plans for this program, state rules can be modified to eliminate conditions and federal regulation references which are no longer required by the federal Clean Water Act. Title VI of the Clean Water Act stipulates specific requirements that applied to all projects provided loan funds through FY 1995. Due to the potential that the Clean Water Act would be reauthorized including extending these requirements, earlier revisions were not recommended. No such extension has occurred and EPA has now provided information as to which requirements may be eliminated. Suggested rule revisions will ease the burden on applicants for loan assistance.

Proposed requirements to be eliminated for new projects are:

- Applicability of Davis-Bacon wage rates to construction contracts
- Planning consideration for innovative/alternative treatment technologies
- Demonstration that a system is not subject to excessive infiltration/inflow and that treatment systems are cost-effective
- Planning requirements for application of best practicable waste technology and analysis of potential recreation and open space opportunities
- Certification of project performance one year after start up

These items are not required by state rules or design standards for projects that do not receive SRF assistance. Additional requirements in the rule that are no longer federal requirements but are important to the financial aspects of the SRF loans will be retained but the federal regulation reference removed. Other minor revisions will update the rule.

The Commission will be asked to approve a Notice of Intended Action to begin the formal rule making process on these proposed rule revisions at their January 1998 meeting.



(A copy of the proposed rule is on file in the department's Records Center)

Mr. Stokes gave a detailed explanation of the proposed rules.

<b>INFORMATIONAL ONLY</b>
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## **NOTICE OF INTENDED ACTION--CHAPTER 20, 22, 23, 24, 25, 28, 29 AND 31, AIR QUALITY RULES UPDATE**

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Commission will be asked to approve the proposed Notice of Intended Action. These rules propose to amend Chapter 20, "Scope of Title—Definitions—Forms—Rules of Practice," Chapter 22, "Controlling Pollution," Chapter 23, "Emission Standards for Contaminants," Chapter 24, "Excess Emission," Chapter 25, "Measurement of Emissions," Chapter 28, "Ambient Air Quality Standards," Chapter 29, "Qualification in Visual Determination of the Opacity of Emissions," and Chapter 31, "Nonattainment Areas," 567 Iowa Administrative Code.

The purpose of this rule making is to update adoption by reference citations. Some adoptions by reference back-date the reference to more clearly identify the actual date of the last change made to the Code of Regulations cited. Most updates do not add any additional requirements upon the state or industry. However, one update adopts by reference the National Ambient Air Quality Standards (NAAQS) establishing new and revised particulate matter standards and revised ozone standards. The rule making also adds the federal nitrogen oxides emission reduction program to the acid rain program. Emissions of nitrogen oxides emitted into the atmosphere have significant adverse effects on human health and the environment. Nitrogen oxides also contribute to the formation ozone, fine particulate matter, acid deposition, and eutrophication of water bodies. This rule making also added various corrections to provide clarifications, remove obsolete rules, and correct internal citations.

Many items have been combined to reduce the length of the rule making and provide clarity. No substantive changes have been made since the rule making was brought to the Commission for information.

(A copy of the rule is on file in the department's Records Center)

Mr. Stokes reviewed details of the rules noting that adoption is necessary to keep the state's rules consistent with applicable federal rules. He stated that the rules have been adopted by EPA addressing fine particulate matter and ozone and there is speculation that Congress may intervene and overturn those rules, but at this point they are federal rules. He related that if Congress acts to overturn or delay the federal rules, staff will come back before the Commission with an emergency rule to do a similar move. Mr. Stokes stated that on Page 9, Item 1, some

reference dates look as if they are taking a step back in time, but those dates are correct. He expanded on those dates relating that they correct a previous error.

*Motion was made by Rita Venner to approve Notice of Intended Action--Chapter 20, 22, 23, 24, 25, 28, 29 and 31, Air Quality Rules Update. Seconded by Rozanne King. Motion carried unanimously.*

**APPROVED AS PRESENTED**

## **NOTICE OF INTENDED ACTION--CHAPTER 102 & 103, SOLID WASTE RULES**

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Commission will be asked to approve a Notice of Intended Action to begin the formal rule making process on the attached amendments to solid waste rules. These amend Chapter 103 to address design and operation requirements for four specific types of landfills: 103.2 Municipal Solid Waste Landfills (MSWLF), 103.3 Non-municipal Solid waste Landfills (NMSWLF), 103.4 Demolition Waste Disposal Sites, and 103.5 Coal Combustion Solid Waste Landfills.

Requirements for MSWLFs are reorganized into 103.2 and remain the same except a height restriction is proposed.

Requirements for NMSWLFs are reorganized into 103.3 and applies to disposal of all non-municipal solid waste except coal combustion residue (CCR). A separate rule is proposed for CCR. Changes include reductions in liner thickness; daily, intermediate, and final cover requirements; groundwater investigation and monitoring requirements; and elimination of gas monitoring requirements.

Rule 103.4 is new and applies to the disposal of waste from demolition of structures only. Only a city, county or 28 E agency may operate such a facility. The individual responsible for management of such a site must be a certified sanitary landfill operator. There is no hydrogeological investigation or groundwater monitoring requirement. There is no bottom liner or leachate collection requirement and the separation distance from groundwater is reduced. Site volume is limited to 50,000 cubic yards. Daily cover is not required and intermediate and final cover requirements are reduced. Closure and postclosure requirements are reduced.

Rule 103.5 is new and applies only to the disposal of coal combustion residue. There is no specific bottom liner or leachate collection requirement. The operating plan must be submitted to the appropriate field office and is not part of the construction permit application. Waste must be deposited in lifts of no more than six inches and wetted. Daily cover is not required if a cemented surface forms to control dusting. Closure and postclosure requirements are reduced.

Chapter 108 is revised to make prescribed management practices for the reuse of solid waste consistent. Some references in Chapter 110 are revised due to changes in the organization of Chapter 103.



### **Solid Waste Rule Amendments**

These rules propose to amend Chapter 103 by revising it to address design and operation requirements for four specific types of landfills: 103.2 Municipal Solid Waste Landfills (MSWLF), 103.3 Non-municipal Solid waste Landfills (NMSWLF), 103.4 Demolition Waste Disposal Sites, and 103.5 Coal Combustion Solid Waste Landfills. The investigation, design, operation, closure/post closure, and monitoring requirements are addressed in the rule for each landfill type.

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The requirements for MSWLFs has been reorganized and rewritten into rule 103.2. The intent was for the requirements to remain basically the same. There is one exception, a height restriction for MSWLFs landfills is being proposed.

The requirements for a NMSWLF has been reorganized into rule 103.3. This rule applies to disposal of all non-municipal solid waste such as industrial solid waste and construction and demolition waste except for coal combustion residue (CCR). A separate rule is proposed for CCR. Major changes include a reduction in the thickness of the clay liner, a reduction in groundwater investigation and monitoring requirements; elimination of gas monitoring requirements; and a reduction in the daily, intermediate, and final cover requirements,

Rule 103.4 is new and applies to the disposal of waste from the demolition of structures only. Following are some major differences compared to the NMSWLF requirements. Only a city, county or 28 E agencies may operate such a facility. The individual responsible for management of such a site must be a certified sanitary landfill operator. There is no hydrogeological investigation or groundwater monitoring requirement. There is no bottom liner or leachate collection requirement and the separation distance from groundwater is reduced. Site volume is limited to 50,000 cubic yards. Daily cover is not required and intermediate and final cover requirements are reduced. Closure and postclosure requirements are reduced.

Rule 103.5 is new and applies only to the disposal of coal combustion residue. Following are major differences compared to the NMSWLF requirements. There is no specific bottom liner or leachate collection requirement. The operating plan must be submitted to the appropriate field office and is not part of the construction permit application. Waste must be deposited in lifts of no more than six inches and wetted. Daily cover is not required if a cemented surface forms to control dusting. Closure and postclosure requirements are reduced.

Some permit requirements for landfills were deleted from Chapter 102 and inserted into Chapter 103. Chapter 108 is revised to make the prescribed management practices for the reuse of solid waste consistent. Some references in Chapter 110 need to be revised because of the change in the organization of Chapter 103.

### **Chapter 100**

Amend 567--100 as follows:

## 567--100.2 Definitions

'Non Municipal Solid Waste Landfill' means a landfill permitted to accept a non hazardous solid waste or combination of wastes exclusive of municipal solid wastes.

"Sanitary Disposal Project" is defined in Iowa Code section 455B.301. means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the executive director.

"Sanitary Landfill " means a method of disposing solid waste on land by utilizing the principles of engineering to confine the solid waste to the smallest practical volume and to cover it with a layer of earth so that no nuisance or hazard to the public health is created. a sanitary disposal project where solid waste is buried between layers of earth. A sanitary landfill may be either a municipal solid waste landfill or a non municipal solid waste landfill.

567--100.3 Application forms and rules of practice.

~~100.3(1)b(2) A temporary pursuant to Iowa Code subsection 455B.307(1) form 44.542-1012.~~

**Chapter 102**

Amend 567--102 as follows:

## 567--102.2 Types of Permits.

There are four types of sanitary disposal project permits issued by the director. These are described in this rule.

STRIKE ALL OF 102.2(1) THROUGH 102.2(4) INCLUSIVE, AND REPLACE WITH THE FOLLOWING:

102.2(1) Municipal solid waste landfill permits. These permits are issued to landfills that will receive residential solid and various other solid wastes commonly collected from inhabited communities.

102.2(2) Non municipal solid waste landfill permits. These permits are issued to landfills that will receive a distinct waste or combination of wastes resulting from commercial or industrial activity.

102.2(3) Solid waste processing permits. These permits are issued to facilities that store, process, handle or dispose of solid wastes by means other than landfilling, including , but not limited to composting, baling, incinerating, separating, recycling, transfer stations, or processing preceding reuse.

102.2(4) Closure permits. These permits are mandatory for landfills at the close of their active use period. They prescribe the surveillance and maintenance functions required for the post closure period.

567--102.43 Preparation of Plans All plans and specifications submitted in support of an application for any permit shall be prepared in conformance with Iowa Code Chapter. 542B and shall be submitted in triplicate.

567--102.54 Construction and operation. All sanitary disposal projects shall be constructed and operated according to the plans and specifications as approved by the department and the terms of the permit. The approved plans and specifications shall constitute a term of the permit.

~~567--102.65(455b)~~ Compliance with rule changes-

RENUMBER 102.6(1) THROUGH 102.11 INCLUSIVE AS 102.5(1) THROUGH 102.5(11) INCLUSIVE.

Amend current 102.7 as follows:

102.7(455B) Amendments. Sanitary disposal project permits, ~~temporary permits and developmental permits~~ may be modified by issuance of an amendment by the department, ~~except as provided in 102.6(1).~~

102.12 ~~Primary plan~~ Application requirements for all sanitary disposal projects other than sanitary landfills.

Strike 102.12(1) through 102.12(11) and insert:

102.12(1) A completed application form #-----.

102.12(2) A contingency plan detailing specific procedures to be followed in case of equipment breakdown, maintenance downtime, or fire in equipment or vehicles including methods to be used to remove or dispose of accumulated waste.

102.12(3) A contingency plan detailing specific procedures to be followed in case of equipment breakdown, maintenance down time, or fire in equipment or vehicles, including methods to be used to remove ore dispose of accumulated waste. \_

102.12(4) Proof of the applicants ownership of the site or legal entitlement to use the site for the disposal of solid waste for the term of the permit for which application is made.

102.12(5) Closure plan. A closure plan shall be submitted which:

- a. Details how and when the facility will be closed in accordance with applicable requirements.
- b. States the name, address and telephone number of the person or office to serve as a contact with regard to the facility during the post closure period.

102.12(6) Such other information as may be required by the director.

STRIKE ALL OF 102.14 THROUGH 102.14(9)D INCLUSIVE.

## CHAPTER 103

### 103.1 Scope and applicability.

This chapter outlines the permit application, siting, design, operating and closure requirements for Municipal Solid Waste landfills (MSWLF) in 103.2 and requirements for Non Municipal

Solid Waste landfills (NMSWLF) in 103.3. Requirements for demolition waste disposal sites are found in 103.4. Additional rules regarding landfills and other types of waste disposal systems are found in Chapters. 100, 101, 102. and 110.

#### 103.2 Municipal Solid Waste Landfills (MSWLF)

##### 103.2(1) New Permit Application Requirements

- A. Completed application form # \_\_\_\_\_.
- B. Approved comprehensive waste management plan.
- C. Copy of local siting approval required by 455B.305A of the Code of Iowa.
- D. Proof of legal entitlement to use the site.
- E. Hydrogeologic investigation report and a hydrologic monitoring system plan. Detailed requirements for these submissions are found in Chapter. 110 of the rules.
- F. Site development and operational plan
- G. Leachate control plan.
- H. Gas control plan.
- I. Closure and post closure plan.
- J. Financial assurance documentation.
- K. A map and aerial photograph of sufficient scale to show all homes, buildings, lakes, ponds, watercourses, wet lands, dry runs, rock outcroppings, roads and other relevant features affecting the design or operation of the landfill.
- L. A plot plan with contours of the entire area in appropriate scale showing current drainage patterns, existing drain tiles, boring locations, bench marks, existing wells and any other relevant features influencing the design or operation of the facility.
- M. Detailed engineering documents showing all site alterations including, but not limited to buildings, fences, litter control structures, roads, wells, water and sewer lines, leachate control and disposal, waste fill locations and cross sections.
- N. All new landfills or expansions that require a new permit or a permit amendment shall include:
  - 1. A comprehensive listing of plant and animal species. In preparing the listing the permit applicant shall contact the departments Parks, Recreation and Preserves division with a request to search its records to determine the presence of, or habitat for, any threatened or endangered species or communities and any prairies, forests or wetlands. In the event that the department's files do not contain records of rare species or communities but their presence is suspected, the permit applicant may be required to conduct an approved site survey.
  - 2. A determination of the presence of and assessment of the impact on any archaeological, historical, or architecturally significant properties on the proposed site. To assess the impact, the permit applicant must consult with the historic preservation bureau of the Iowa state historical society.

##### 103.2(2) Renewal Permit Application Requirements

- A. Completed application form # \_\_\_\_\_.
- B. A copy of the current approval of the comprehensive waste management plan update.
- C. An update of the documents and information required in 103.2(1).
- D. A certification by a professional engineer licensed to practice in the State of Iowa that the landfill is being operated in accordance with the approved plan documents and applicable rules.

##### 103.2(3) Closure permit application requirements

- A. Completed application form # \_\_\_\_\_.

- B. An updated hydrogeologic monitoring plan for the 30 year post closure period.
- C. An updated leachate control plan.
- D. An updated gas control plan.
- E. A plot plan showing the post closure contours, drainage patterns and permanent features including leachate handling facilities, roads and structures.
- F. Documentation of closure/post closure financial assurance.

103.2(4) Siting Requirements for MSWLFs.

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- A. The base of the landfill must be a minimum of five feet above the known high water table unless a greater separation is required to ensure that there will be no adverse affect on ground or surface waters, or a lesser separation is unlikely to have an adverse affect on ground and surface waters.
- B. The landfill may not be located on a flood plain or shoreline without a formal determination by the departments' water resources section that the location will comply with the requirements of Title V of these rules and, where necessary, the approval of the U. S. Corps of Engineers must be obtained.
- C. The landfill must be a minimum of 1000 ft. from any existing well being used for human or livestock water consumption. Greater separation distance may be required if the hydrologic conditions in the area justify such separation.
- D. The landfill property line must be a minimum of one mile from any public water supply well in existence at the time of the first application for a landfill permit.
- E. All wastes must be deposited a minimum of 50 ft. from any adjacent property unless there is a written agreement between the parties on file with the county recorder that allows a lesser distance and a copy of the agreement is furnished to the Department at the time of application.
- F. All wastes must be deposited a minimum of 500 ft. from a habitable residence in existence at the time of application for the initial landfill permit unless there is a written agreement between the parties on file with the county recorder that allows a lesser distance and a copy is furnished to the department at the time of application.
- G. When a new landfill or lateral expansion is located within 10,000 ft. of any airport runway end used by turbojet aircraft or within 5,000 ft. of any airport runway end used only by piston type aircraft, the plan must contain a notice that the facility's official files will include the following demonstration: the site is designed and will be operated so that it does not pose a bird hazard to aircraft. For any new site or lateral expansion within a five mile radius of any airport runway end use for turbojet or piston type air craft, the plan must show that the Federal Aviation Administration has been notified. For existing landfills located within 10,000 ft. of any airport runway end used by turbo jet aircraft or within 5,000 feet of any runway end used only by piston type aircraft, the owner or operator must prepare the demonstration required above in this paragraph and notify the director that it has been placed in the facility's official files.
- H. When a new landfill or lateral expansion is located within 200 feet of a fault that has had displacement in Holocene time, the plan must contain a notice that the facility's official files will include the following demonstration: that an alternative setback distance of less than 200 feet will prevent damage to the structural integrity of the site and will be protective of human health and the environment.
- I. When a new landfill or lateral expansion is located in seismic impact zones, the plan must contain a notice that the facility's official files will include the following demonstration: that all containment structures, including liners, leachate collection systems, and surface water control

systems, are designed to resist the maximum horizontal acceleration in the lithified earth material for the site.

J. When a new facility or a lateral expansion is located in an unstable area, the plan must contain a notice that the facilities official files will include the following demonstration: that engineering measures have been incorporated into the site design to ensure that the integrity of the structural components of the site will not be disrupted. The demonstration must consider the on-site or local geologic or geomorphologic features, and on-site or local human-made features or events (both surface and subsurface). For existing facilities located in an unstable area, the owner or operator must prepare the above demonstration required in this paragraph and notify the Department that it has been placed in the facility's official files.

#### 103.2(5) Design Criteria for MSWLFs.

##### A. Liners.

1. MSWLF shall have a composite liner system consisting of two components. The upper component must consist of a minimum 30-mil flexible membrane liner (FML) or an FML component consisting of high density polyethylene (HDPE) at least 60 mil thick. The lower component must consist of at least a two foot layer of compacted soil having a coefficient of permeability of  $1 \times 10^{-7}$  cm/sec (.00028 ft./day) or less, as measured by laboratory analysis. The FML must be installed in direct and uniform contact with the compacted soil component.

2. The department may approve an alternate to the liner system specified in 103.2(5)a. provided that the alternative liner system design has included certification by a professional engineer licensed in Iowa stating that the proposed alternative liner system will ensure that the contaminant concentration values listed in federal regulations under 40CFR 258, Subpart D, table 1, will not be exceeded in the uppermost aquifer at the designated monitoring points of compliance as specified by the department. This point of compliance shall be not more than 150 meters from the waste management boundary. This point of compliance is to be utilized for the purpose of certifying the alternative design only. All operational issues related to monitoring systems, compliance determinations, groundwater assessments and remedial measures are governed by the appropriate, relevant sections in Chapter 103 and 111. The certification shall be on a form furnished by the department which shall include space for identification of the sources of data utilized, formulas, models, tests or other methods utilized to determine contaminant concentrations at the points of compliance and all reference or guidance documents relied upon for the techniques or methods applied. A copy of all data utilized, formulas, models, tests or other methods utilized to determine contaminant concentrations at the point of compliance shall be placed in the facilities official files prior to operation of the landfill.

3. The side slopes of the landfill liner must be not more than 25 percent.

4. The landfill liner must be graded toward the leachate collection pipe at a slope not less than 2 percent nor greater than 10 percent.

5. A drainage layer must be placed immediately above the landfill liner. This drainage layer shall consist of a minimum of one foot of drainage media with a coefficient of permeability of  $1 \times 10^{-3}$  cm/sec (2.8 ft./day) or greater.

##### B. Leachate collection, storage, treatment and disposal

1. The leachate collection system shall be designed to allow not more than one foot of head above the top of the landfill liner. The system must include a method for measuring the leachate head in the land fill at the lowest area(s) of the collection system.

2. Leachate collection pipe in a landfill with a synthetic (FML) liner must be placed in a depression in the liner system a minimum of 18 inches deep. Additional soil must be added beneath the depression to provide a minimum of 2 feet of soil liner.
  3. Leachate collection pipe in a landfill with an approved alternative soil liner must be placed in a trench a minimum of 18 inches into the liner. Additional soil must be added beneath the trench to provide a minimum of 4 feet of soil liner.
  4. Leachate collection pipe shall be surrounded by a gravel protection and drainage layer, and by either a graded filter layer or by a geotextile filter fabric.
  5. The collection pipe must be covered with a filter material to encourage flow and to prevent infiltration of fine grained materials into the pipe. The collection pipe must be perforated or slotted, of a sufficient diameter to handle the expected flow, but not less than 4 inches inside diameter, capable of being cleaned throughout the active life of the site and during the post closure period, chemically resistant to the wastes and the expected leachate and of sufficient strength to support maximum static and dynamic loads imposed by the overlying wastes, cover materials, and equipment used during the construction and operation of the site. Documentation shall be submitted which includes methods and specifications for cleaning of the pipes, chemical compatibility of the pipes, and calculations and specifications for pipe strength.
  6. The leachate collection system shall be equipped with valves to enable the flow of leachate from the facility to be shut off during periods of maintenance.
  7. Leachate treatment facilities must be designed in conformance with the departments wastewater treatment design standards. All leachate collection systems must be capable of storing at least seven days of collected leachate. All lagoon types of leachate treatment or storage systems must have a liner that meets the requirements for a landfill liner.
  8. Effluent from a leachate collection or treatment system may be disposed of in the following ways:
    - a. Direct discharge to a watercourse pursuant to a National Pollution Discharge Elimination System (NPDES) permit issued by the department.
    - b. Discharge to a treatment facility that is owned and operated by another entity pursuant to a treatment agreement between that entity and the landfill. The treatment agreement must be submitted and approved by the department unless the community owning the treatment facility has an approved pretreatment program.
    - c. Recirculation onto the landfill if authorized by the operating permit. Such recirculation may be authorized only if the application area has a liner and a leachate collection system that comply with the design standards of this chapter.
- C. Site design factors
1. The elevation of the final cover for a new landfill or the horizontal expansion of a currently permitted landfill shall not be more than 25 feet above the highest ground elevation that existed within the fill area prior to its utilization for waste disposal, nor shall the elevation of the final cover at any point be more than 50 feet higher than the original elevation at that point.
    - a. Where the final cover of a closed area in a currently active landfill exceeds the elevation limit a reduction in the height of those areas is not required.
    - b. The height limitation for the remaining portions of the landfill may be raised to the elevation already attained prior to the effective date of this rule.

2. The site must have all weather access roads adequate to accommodate all delivery vehicles and operating equipment.
3. The site must be fenced and gated in a manner that will prevent unauthorized deposition of wastes at the site.
4. The site must include diversion and drainage structures designed to prevent ponding, infiltration, erosion or slope failure from surface runoff due to a 25 year, 24 hour rainfall event shown in the Illinois State Water Surveys' "Rainfall Frequency Atlas of the Midwest", Bulletin #71.

103.2(6) Operating Requirements for MSWLFs.

A. An operation and development plan for all new landfills must be prepared and submitted to the department prior to the initiation of operations. The plan must, at a minimum, include the following:

1. The location and sequence of the area(s) to be filled during the permit period.
2. A monitoring and sampling program that includes an approximate sampling schedule and a quality assurance program for the collection, transport, analysis and record keeping for each monitoring point.
3. A contingency plan for dealing with interruptions of normal operations due to equipment failures, weather conditions or any other cause.

B. Each days waste deposit shall be uniformly spread and compacted in layers not exceeding 2 feet in depth.

1. Solid waste at the site shall be covered at the close of each days operation with a compacted layer of soil or approved alternative, at least six inches in depth.
2. At least one foot of intermediate cover shall be applied to any area of the site which will not be utilized for further disposal of solid waste for more than one week.
3. At least a two foot cover of compacted soil or approved alternative shall be applied to any area of the site which will not be utilized for further disposal of solid waste for more than two months. The cover must be graded to allow surface water runoff.

C. The working area of the landfill shall be staked to assure that the fill practice conforms to the plans and specifications approved by the department.

D. The landfill must be inspected annually by an engineer licensed to practice in the State of Iowa to determine conformance with the approved plans and specifications. A report identifying the findings of that inspection must be submitted to the department by the permit holder.

E. All MSWLFs shall establish a program at the facility for detection and preventing the disposal of regulated hazardous waste. The program must consist of random inspections of incoming loads, thorough record keeping of the time, date and finding of each inspection and the follow up actions taken if any inappropriate wastes are found. The persons conducting such inspections must be trained in the identification of regulated hazardous wastes.

F. Solid wastes shall be unloaded at the operating area only when an operator is on duty at that area. Solid waste may be deposited in storage containers at the site under the supervision of an attendant or operator.

G. Access to the site shall be restricted and a gate shall be provided at the entrance to the site and kept locked when an attendant or operator is not on duty.

H. A copy of the permit, engineering plans and reports shall be kept at the site at all times.



- I. Solid wastes shall not be deposited in such a manner that material or leachate therefrom may cause pollution of ground or surface waters.
- J. Provisions shall be made for an all weather fill area which is accessible for solid waste disposal during all weather conditions under which solid waste is received and disposed of at the site.
- K. Provisions shall be made to have cover material available for winter and wet weather operations.
- L. The site shall be graded and provided with drainage facilities to prevent flow of surface water onto the fill area and to prevent soil erosion and ponding of water.
- M. Areas where disposal is discontinued shall be covered with soil and seeded with suitable vegetation at the earliest possible date.
- N. Monitoring wells or appurtenances related to hydrologic monitoring shall be maintained and repaired or replaced as necessary to assure continuity of all sample sources.
- O. The static water level in each monitoring well shall be measured and recorded monthly during the first year of operation and at the time of each sampling event thereafter. Stage and flow rate of any surface waters required to be monitored must be measured and recorded at the time of sample collection.
- P. Monitoring requirements
  1. During the first year of operation of the hydrologic monitoring system, samples must be collected quarterly from each monitoring point. Samples shall be analyzed for the following parameters:
    - a. Arsenic, dissolved
    - b. Barium, dissolved
    - c. Cadmium, dissolved
    - d. Chromium, total, dissolved
    - e. Lead, dissolved
    - f. Mercury, dissolved
    - g. Magnesium, dissolved
    - h. Zinc, dissolved
    - i. Copper, dissolved
    - j. Benzene
    - k. Carbon tetrachloride
    - l. 1,2 Dichloroethane
    - m. Trichloroethane
    - n. 1, 1, 1-Treichloroethane
    - o. 1,1-Dichloroethane
    - p. Paradichloroebenzene
    - q. Chloride
    - r. Specific conductance
    - s. pH (Field Measurement)
    - t. Ammonia Nitrogen
    - u. Iron, dissolved
    - v. Chemical Oxygen Demand
    - w. Temperature (Field Measurement)
    - x. All other parameters specified in the facility's' permit.

- y. Total organic halogen
- z. Phenols
- aa. All additional parameters specified in the facility's permit.
- 2. After the first year each monitoring point must be sampled semiannually and analyzed for the following parameters:
  - a. Chloride
  - b. Specific conductance (field measurement)
  - c. pH (field measurement)
  - d. Ammonia nitrogen
  - e. Iron, dissolved
  - f. Chemical oxygen demand
  - g. Temperature (field measurement)
  - h. All other parameters specified in the facilities permit
- 3. After the first year of operation each monitoring point must be sampled quarterly for the following parameters:
  - a. Total organic halogen
  - b. Phenols
  - c. Any additional parameters specified in the facilities permit
- 4. All analyses must be performed by a laboratory certified by the state of Iowa. The reported analytical data must show the detection limit for each parameter.
- 5. After the first year of monitoring the mean and standard deviation for each parameter shall be calculated for each upgradient monitoring well and that data must be permanently retained in the facility files.
- 6. The mean and standard deviation for each down gradient monitoring point shall be recalculated annually using the data from all subsequent semi-annual monitoring available for that point.
- 7. If the analytical value for a current sample from any down gradient monitoring point does not fall within two standard deviations for the corresponding up gradient point the department shall be notified within thirty days. Also, if the analytical value for a current sample from any up gradient monitoring point does not fall within two standard deviations for that monitoring point the department shall be notified within thirty days. The department may require additional monitoring if an exceedance is reported.
- 8. The owner or operator must maintain permanent records of all sampling events including:
  - a. The date the samples were collected.
  - b. The name of the person(s) collecting the sample.
  - c. The water level at each point sampled.
  - d. The results of all measurements, analysis and observations.
- Q. The owner/operator shall submit an annual report in November of each year. The report must be prepared by an engineer licensed to practice in the State of Iowa and, at a minimum, must contain the following:
  - 1. Graphs showing the concentrations versus time for all monitored parameters at each monitoring well for the period of record. The graph shall show the control limit (two standard deviations) for each parameter.
  - 2. The amounts and types of wastes accepted under Special Waste Authorizations.

3. A summary of the construction, operation and closure activities that occurred during the year, such as the areas that were closed and received final cover, new areas opened, inspections and maintenance of monitoring wells, drainage systems and similar activities.

R. Owners and operators of MSWLFs must conduct quarterly monitoring to verify compliance with the following requirements:

1. The concentration of methane gas generated by the facility does not exceed 25 percent of the lower explosive limit for methane in facility structures (excluding gas control or recovery system components), and;

2. The concentration of methane gas does not exceed the lower explosive limit for methane at the facility property boundary.

S. If the methane gas levels exceed the limits stated in the previous paragraph the owner or operator of the MSWLF must:

1. Immediately take all necessary steps to ensure protection of human health and notify the department.

2. Submit a report to the department within seven days stating the gas levels detected and a description of the steps taken to protect human health.

3. Implement a plan for remediation of the methane gas releases within 60 days of detection of the violation. A copy of the plan being implemented shall be submitted to the department.

T. No free liquids or waste containing free liquid shall be accepted for disposal at a MSWLF.

U. If it becomes apparent that leachate is migrating from the disposal area in an amount that is or may potentially impact any waters of the state or surrounding property the department may require the preparation and submittal of a ground water assessment. The assessment shall delineate the hydrologic pathways of the migration, and must identify the current and potential extent and impact of the migration. This assessment shall be submitted to the department not more than 90 days after being notified that it is required.

V. Following the review and approval of the assessment the department will notify the owner or operator regarding the need to develop and implement a corrective action plan unless it is apparent that the migration does not pose a threat to the waters of the state or any surrounding property.

W. Open burning is prohibited unless specifically authorized by the department.

X. Litter must be confined to the property on which the landfill is located. Any litter strewn beyond the operating area must be collected and properly disposed of at the end of each day.

Y. Scavenging is prohibited. Materials salvage may be conducted by the landfill or its authorized representatives.

#### 103.2(7) Closure/post closure requirements for MSWLFs

##### A. Closure Requirements

1. The owner or operator of a MSWLF shall notify the department of intent to close at least 180 days prior to the date of closure. The notice shall be accompanied by an updated closure/post closure plan detailing the 30 year post closure monitoring program.

2. Notice of closure shall be posted at least 180 days prior to closure of the facility indicating the date of closure and alternative solid waste management facilities. Notice of closure shall also be published at least 180 days prior to closure in a newspaper of local circulation. The notice shall include the date of closure and alternative solid waste management facilities.

3. Implementation of the closure/postclosure plan shall be completed within 90 days of the closure of the facility. The owner and an engineer licensed in the state of Iowa shall certify that the closure/postclosure plan has been implemented in compliance with the rules, closure/postclosure plan and permit.
4. Upon completion of closure activities, as-built plans shall be submitted to the department showing changes from the original design plans, test results indicating compliance with final cover as applicable, waste removal, equipment decontamination, and other forms of documentation as required to include a copy of the notation filed with county recorder. The plans must also show the final cover contours, drainage pathways and any facilities related to closure or post closure maintenance.
5. A minimum of two permanent bench marks must be installed at different locations on the landfill property where they can not be affected by the differential settling of the wastes.
6. The final cover shall consist of a seal layer of not less than 2 ft. of compacted soil with a permeability of  $1 \times 10^{-7}$  cm/sec or less as determined by laboratory analysis. The soil shall be placed in lifts not to exceed 8 inches. Field density tests shall be performed to verify that the  $1 \times 10^{-7}$  cm/sec permeability has been attained.
7. The seal layer shall be overlaid with not less than 2 feet of uncomplicated topsoil capable of supporting perennial grasses.
8. A cover of perennial grasses shall be established on the final cover during the first growing season following closure.
9. The slope of the final cover shall be not less than 5% nor more than 25%. The site shall be graded so all surface runoff drains away from fill areas and the drainage pathways shall be designed to prevent erosion.

B. Post closure requirements.

1. The owner or operator is responsible for surveillance, monitoring and maintenance of the site for 30 years following closure of the facility.
2. Implementation of the post closure plan shall begin within 90 days of closure of the facility.
3. The department shall be notified within 10 days of any alterations to the site, whether such alterations are deliberate or the result of natural forces.
4. The vegetative cover must be maintained, including prompt reseeding, if necessary. Erosion must be repaired promptly. Differential settling shall be returned to grade to prevent ponding of surface runoff.
5. The department may extend the monitoring period beyond the 30 year period if off site water quality exceeds established limits or if the effectiveness of a remediation program has not been fully documented.

103.3 Non Municipal Solid Waste Landfills.

Following are the minimum requirements for siting, designing, and operating non-municipal solid waste landfills based on the assumption that most non-municipal solid waste has a very low potential for causing groundwater contamination or other environmental concerns. If the characteristics of the solid waste are such that a contaminated leachate may be generated, additional controls will be required.

103.3(1) Site requirements for non-municipal solid waste landfills (NMSWLF).

- A. The site shall not be a wetland, or within a 100 year flood plain and cannot have any sinkholes or similar karst features.

B. No waste shall be deposited within 300 ft. of an inhabitable residence or a commercial enterprise or within 50 feet of the property boundary.

C. All waste must be a minimum of five feet above the maximum known ground water table.

103.3(2) Application requirements for a NMSWLF

A. A completed application form on form number.

B. A copy of the local siting approval required by 455B.305A of the Code Iowa.

C. A copy of the letter from the Waste Management Assistance Division approving the comprehensive plan required by subrule 567-101.5 of the Iowa Administrative Code.

D. Proof of legal entitlement to use the property as proposed.

E. A topographic map of the site and the adjacent area within 500 feet of the site with contour intervals not exceeding five feet, that shows the location of existing improvements or alterations such as structures, wells, lakes, roads, drain tiles, or similar items. The highest point of elevation on the site shall also be identified and given.

F. The results of a sufficient number of soil borings to establish the direction of ground water flow throughout the site and the minimum depth to ground water on the site.

G. An adequate number, three minimum, of representative groundwater sample results to fully characterize the groundwater quality at the site.

H. Construction drawings and specifications of the improvements and alterations that are to take place on the site such as roads, structures, utilities, drainage ways, gates and fences.

I. A cross section view of the cell or cells that will be utilized during this permit period showing the placement and cover of the waste that is expected to occur during the permit period being requested.

103.3(3) Design Criteria

A. Non municipal solid waste landfills shall have a soil liner consisting of at least two feet of compacted clay. The coefficient of permeability of the liner must be  $1 \times 10^{-7}$  cm/sec or less. The method of determining compliance with the coefficient of permeability shall be stated in the specifications. A flexible membrane liner (FML) or other alternate which meets the requirements for Municipal Solid Waste Landfills in subrule 103.2(5)a1&2 is an acceptable alternative. If side slopes exceed 25%, a liner is not required on the side slope.

B. Non municipal solid waste landfills must have a leachate collection and storage system. The collection pipe shall be placed in a trench excavated to a minimum of 18 inches below the liner surface. The collection pipe must be protected by granular material which must in turn be covered with a filter layer to facilitate liquid flow into the pipe while preventing fine grained materials from plugging the system. If a municipal Solid Waste Landfill liner system is used, the corresponding leachate collection system in subrule 103.3 must also be used.

C. The leachate collection pipe must be perforated and a minimum of four inches in diameter. The pipe must be made of chemically resistant materials and possess sufficient strength to support the maximum static loads to which it will be subjected. The collection system shall be equipped with valves that allow the shut off of flow during periods of maintenance.

D. No discharges of leachate from the landfill property to the waters of the state is allowed unless authorized by a National Pollution Discharge Elimination System (NPDES) permit. All other methods of leachate disposal must be in accordance with the operating permit.

E. The leachate storage system shall provide a minimum of seven days of storage. Any earthen leachate storage facility shall have an equivalent of or less permeability than the landfill liner.

F. Surface runoff must be diverted from all active or closed fill areas.

G. The elevation of the final cover for a new landfill or the horizontal expansion of a currently permitted landfill shall not be more than 25 feet above the highest ground elevation that existed within the fill area prior to its utilization for waste disposal, nor shall the elevation of the final cover at any point be more than 50 feet higher than the original elevation at that point.

1. Where the final cover of a closed area of in a currently active landfill exceeds the elevation limit a reduction in the height of those areas is not required.

2. The height limitation for the remaining portions of the landfill may be raised to the elevation already attained prior to the effective date of this rule.

H. The site must have all weather access roads adequate to accommodate all delivery vehicles and operating equipment.

I. The site must be fenced and gated in a manner that will prevent unauthorized deposition of wastes at the site.

J. The site must be secured with a fence and gate(s) to prevent unauthorized entry when unattended.

#### 103.3(4) Operating requirements

A. A developmental and operational plan shall be prepared and submitted to the appropriate DNR field office prior to starting operations. The plan, at a minimum, shall include:

1. An identification of the area to be filled during the period for which a permit is being requested;

2. The method(s) that will be utilized to prevent illicit municipal or putrescible solid wastes from being deposited as a result of mixing with authorized waste brought to the site.

3. The frequency, extent, and method of spreading and compacting the waste; the optimum layer thickness; and the size and slope of the operating face.

4. How the facility will be operated with respect to when the operating personnel will be on site and how waste will be allowed at the facility when an operator is not on site.

B. The person responsible for operation of the site must be a certified in accordance with operator certification requirements in subrule 102.13.

C. Wastes must be covered at least every two weeks with a minimum of six inches of soil cover or an alternative cover material approved by the department. The frequency of cover may be increased by the department if the nature of the waste is such that more frequent covering is needed to control litter, dust, vectors and rodents, infiltration or similar type problems.

D. A minimum of one foot of intermediate soil cover or a department approved alternative intermediate cover shall be applied to areas which will not be utilized for further waste disposal for ninety days unless a greater cover depth is required because of the nature of the waste

E. Prior to the placement of any waste in the landfill a minimum of one upgradient monitoring well must be installed and sampled for the parameters listed in 103.2(6)o.

F. A minimum of one downgradient monitoring well must be installed within one year following startup operation. Additional monitoring wells will be required when it is apparent that more than one potential pathway of contaminant movement is available. Monitoring wells will normally be placed within 50 ft. of the waste boundary unless the department specifically grants a variance.

G. Within one year of installation of a monitoring well, a quarterly sample shall be collected from each well and analyzed for a Volatile Organic Compound scan (EPA Method 8260-60), Total Organic Carbon, and the predominant parameters agreed upon by the department based on

the Toxicity Characteristic Leachate Procedure test results that are representative of the waste being disposed of. A minimum of one sample from each well shall be collected annually and analyzed for the above parameters. Each time a groundwater sample is collected, the groundwater elevation shall be measured and recorded to the nearest .01 foot. Increased sampling frequency will be required if a sample shows that the groundwater may be impacted by leachate.

H. A report on the groundwater monitoring results shall be submitted to the Solid Waste Section annually.

#### 103.3(5) Closure/Postclosure Requirements

- A. The final cover shall consist of not less than one foot of compacted clay soil overlain with not less than two feet of uncompacted soil capable of sustaining vegetative growth.
- B. The final slope of the entire fill area shall be not less than 3% nor more than 20%.
- C. A growth of hardy native grasses must be established on the final cover at the earliest possible date following closure.
- D. A minimum of one sample from each well shall be collected annually and analyzed for the above parameters. Each time a groundwater sample is collected the groundwater elevation shall be measured and recorded to the nearest .01 foot. Increased sampling frequency will be required if a sample shows that the groundwater may be impacted by leachate.
- E. A report on the groundwater monitoring results shall be submitted to the Solid Waste Section annually.
- F. One Hundred and eighty days prior to closure the owner/operator must submit a postclosure plan describing the management process and the parties responsible for post closure activities including the operation and maintenance of the leachate collection and disposal system, monitoring and site maintenance
- G. After closure an annual inspection of the site shall be conducted and any differential settling, surface cracks or holes, erosion channels or other interference with surface drainage must be restored to their original condition.

#### 103.4 Requirements for demolition waste disposal sites.

##### 103.4(1) Criteria and eligibility for establishing a demolition waste disposal site.

- A. Permitted landfills, cities, counties and 28E units of government may establish a site for the disposal of demolition wastes originating within the defined planning area these entities are participating in without obtaining a permit from the department, subject to the requirements of this section.
- B. The site must be operated under the management, direction and supervision of a certified landfill operator.
- C. When a site has been selected as a demolition waste disposal site the Waste Management Assistance Division (WMAD) and the appropriate field office of DNR must be notified of the location and the intended use not less than 15 days prior to the acceptance of any wastes.
- D. The tonnage fee requirements of 455b.310 do not apply.

##### 103.4(2) Siting Requirements

- A. The volume of any single site shall not exceed 50,000 cubic yards.
- B. The site must be fenced and have gate locks that will prevent unauthorized entry when the site is unattended.

- C. The site shall not be located in a wetland or within the 100 year flood plain. The site shall not be located in a gravel pit, quarry or any area where the waste would be in contact with ground water or highly permeable soils.
- D. The waste in the fill area cannot be within 1000 ft. of a public or private well and cannot be within 200 ft. of the nearest surface water.
- E. The fill area cannot be within 50 ft. of the property boundary nor within 300 ft. of a useable structure.
- F. No burning may take place on the site.
- G. The slope of the site cannot exceed 9%. All drainage must be diverted around the fill area to prevent surface water run on to the fill area surface during its active life or after closure.
- H. The bottom of any filled area must be a minimum of three feet above the seasonal high water table.

#### 103.4(3) Waste Acceptance and Management.

- A. Wastes resulting from the demolition of structures, including those destroyed by natural disasters, are the only wastes that can be disposed of at such a site.
- B. The structure must be inspected for the presence of asbestos by a person certified to conduct such inspections and to collect samples of Asbestos Containing Materials (ACM) or Presumed Asbestos Containing Materials (PACM).
- C. If the inspection shows that the total waste stream does not contain ACM or PACM the structure may be disposed of pursuant to these regulations.
- D. If ACM is present, the waste stream must be disposed of in accordance with currently applicable National Emission Standards for Hazardous Air Pollutants (NESHAPS) and Iowa Occupational Safety and Health regulations. As an alternative to disposal at an off site disposal area ACM may be buried on site, in the basement, provided that:
  - 1. The wastes are kept thoroughly wet and the workers are adequately protected during the demolition/burial process.
  - 2. The local government of jurisdiction grants approval.
- E. Salvage of demolition material from ACM contaminated waste streams is not permitted unless each item is decontaminated in a containment area.
- F. Items within a structure must be removed and recycled if practical or taken to a permitted disposal facility. Hazardous materials must be disposed of in accordance with applicable federal hazardous waste regulations./
- G. Efforts to salvage and recycle metals and other materials are encouraged. An area on the disposal site should be designated for the separation, recovery and storage of recyclables.

#### 103.4(4) Disposal Site Operating Requirements

- A. The owner/operator of a site must keep records of the weight, type, and source of demolition materials accepted at the facility.
- B. The owner/operator must submit an annual report to the Department of Natural Resources by October 1 of each year covering the most recent state fiscal year (July 1 through June 30). At a minimum the report must provide a) the name of the site owner. b) The location of the facility, c) the ton of waste accepted, and 4) the jurisdiction and address of the site of origin of the demolition waste. The tonnage reported must be from scale weights or by applying the formula of 1250 lbs. per cubic yard. One copy of the report shall be provided to the Waste Management Assistance Division (WMAD), Wallace Bldg., 900 E. Grand Ave., Des Moines,



IA 50319 and one copy must be provided to the appropriate field office of the Environmental Protection Division.

C. The site must be secured against unauthorized entry unless a responsible operator is on site. The owner/operator is responsible for removing and disposing of wastes left near the perimeter of the site.

D. Demolition wastes can only be accepted from parties who have received prior approval from the city, county or 28 E unit owning and operating the site.

E. The active working face on the site shall be restricted to as small an area as practical.

F. Wastes shall not be exposed for more than thirty (30) calendar days unless additional wastes are currently being placed in the same area. Such interim cover shall consist of not less than six (6) inches of topsoil.

#### 103.4(5) Closure / Post Closure Requirements

A. When an area is permanently closed it must be covered with a soil cover of at least 2.5 ft. The entire waste containing area must be graded to assure that surface water will readily run off.

B. After closure the owner/operator must establish a grass cover over the site and perform any other site modifications needed to prevent erosion of the cap.

C. The owner/operator must conduct an annual inspection of the site after closure and take any necessary actions to prevent drainage problems, repair erosion eliminate depressions in the cap, re establish grass cover in all damaged or barren areas in the cover and identify any other potential problems with final closure. This annual inspection and maintenance must be performed for at least five years after closure.

D. The Department may, at any time during the active life, or after closure, require investigation, testing, monitoring, or other action if it appears that the site is or may be a threat to the public health and welfare or to the environment or that it has been operated in must of this rule.

103.5 Requirements for Solid Waste Landfills that will receive only coal combustion residue.

Following are the minimum requirements for siting, designing, and operating a solid waste landfill accepting only coal combustion residue. "Coal combustion residue" means any solid waste produced by the burning of coal, either by itself or in conjunction with natural gas or other carbon based fuels. It includes, but is not limited to, bottom ash, fly ash, slag and flue gas desulfurization sludge generated by coal combustion and associated air pollution control equipment.

#### 103.5(1) Site requirements.

A. The site cannot be a wetland, cannot be within a 100 year flood plain and cannot have any sinkholes or similar karst features.

B. No wastes shall be deposited within 300 ft. of an inhabitable resident or a commercial enterprise, or within 50 ft. of the property boundary.

C. All waste must be a minimum of five feet above the known ground water table.

#### 103.5(2) Permit application requirements.

A. A completed application form \_\_\_\_\_.

B. A copy of the letter from the Waste Management Assistance Division approving the comprehensive plan required by subrule 567-101.5 of the Iowa Administrative Code.

C. Proof of legal entitlement to use the property as proposed.

D. A topographic map of the site and the adjacent area within 300 feet of the site, with contour intervals not exceeding five feet, that shows the location of existing improvements or alterations such as structures, wells, lakes, roads, drain tiles or similar items. The highest point of elevation on the site shall also be identified and given.

E. The results of a sufficient number of soil borings to establish the direction of ground water flow throughout the site and the minimum depth to ground water on the site.

F. An adequate number, three minimum, of representative ground water sample results to fully characterize the ground water quality at the site.

G. Construction drawings and specifications of the improvements and alterations that are to take place on the site such as roads, structures, utilities, drainage ways, gates and fences.

H. A copy of the local siting approval required by 455B.305A of the Code of Iowa.

#### 103.5(3) Design Criteria

A. The design of a coal combustion residue solid waste landfill shall contain a method for ensuring protection of the groundwater and surface water.

B. The design plan shall include a method of ash transportation that prevents blowing ash and a method for preventing blowing dust and air emissions when unloading the ash.

C. Surface runoff must be diverted from all active or closed areas, both during the active life of the facility and during the post closure period.

D. The site must be secure with a fence and gate(s) to prevent unauthorized entry when unattended.

E. The elevation of the final cover for a new landfill or the horizontal expansion of a currently permitted landfill shall not be more than 25 feet above the highest ground elevation that existed within the fill area prior to its utilization for waste disposal, nor shall the elevation of the final cover at any point be more than 50 feet higher than the original elevation at that point.

1. Where the final cover of a closed area in a currently active landfill exceeds the elevation limit a reduction in the height of those areas is not required.

2. The height limitation for the remaining portions of the landfill may be raised to the elevation already attained prior to the effective date of this rule.

F. The site must have all weather access roads adequate to accommodate all delivery vehicles and operating equipment.

G. The site must be fenced and gated in a manner that will prevent unauthorized deposition of wastes at the site.

#### 103.5(4) Operating requirements

A. An operation plan shall be prepared and submitted to the appropriate department field office prior to initiating operations. The plan, at a minimum, shall include:

1. An identification of the area to be filled during the period for which a permit is being requested.

2. The method(s) that will be utilized to prevent illicit municipal or putrescible solid wastes from being deposited as a result of mixing with authorized waste brought to the site.

3. The frequency, extent and method of spreading and compacting the waste; the optimum layer thickness; and the size and slope of the operating face.

4. A description of the operating procedures that will be followed when wastes brought to the site.

B. Wastes may not be deposited in lifts of more than six inches. After the waste is deposited the lift shall be wetted sufficiently to form a cemented surface. If this method does not adequately control dust and erosion the department may require a soil cover.

C. A minimum of one foot of intermediate soil cover or a department approved alternative intermediate cover shall be applied to areas which will not be utilized for further waste disposal for ninety days.

D. A minimum of one downgradient monitoring well must be installed within one year of initiating operations. Additional wells may be required when it is apparent that more than one potential contaminant pathway exists. monitoring wells will normally be placed with 50 feet of the waste boundary.

E. Annual sampling of all monitoring wells shall commence within one year of initiating operations. Additional sampling may be required if it appears that the groundwater is or may be affected by leachate or surface activities at the landfill.

F. A report of the ground water monitoring results shall be submitted to the Department by the end of the first years operation and annually thereafter.

#### 103.5(5) Closure/Postclosure requirements

A. One hundred and eighty days prior to closure the owner/operator shall submit a postclosure plan to the department. The plan shall list the day of closure, the actions that will be taken to close the site and the parties responsible for postclosure maintenance.

B. The final cover shall consist of not less than two feet of compacted soil and one foot of uncompacted soil capable of sustaining a growth of common grasses.

C. The slope of the landfill area after final closure shall be not less than 3% nor more than 25%

D. A growth of common grasses shall be established on the final cover by the end of the first full growing season.

E. A minimum of one sample from each monitoring well shall be collected annually during the post closure period and analyzed for the parameters specified in the permit. The results shall be included in the annual report.

F. After closure, an annual inspection of the site shall be conducted. Any differential settling, surface cracks, holes, erosion channels, or any interference with surface drainage shall be corrected by restoration to their original condition. A report on the findings and corrective actions taken shall be included in the annual report.

## CHAPTER 108

108.1 Strike in its entirety and replace with the following:

### 108.1 Policy:

It is the policy of the department to encourage recycling and beneficial reuse of wastes, residues and byproducts that would otherwise have to be disposed of in accordance with solid waste disposal rules. This chapter is intended to identify some of the more common beneficial reuse practices that may be conducted without the approval of this department. It further prescribes some management practices that must be followed to avoid the creation of environmental problems or nuisance conditions and also prescribes the procedure to be followed

to obtain a determination from the department regarding the acceptability of a beneficial reuse that is not identified in these rules.

This rule describes some uses of waste products that are allowed without obtaining a permit or formal approval from the department. It does not exempt the user / generator from any other permits, approvals, licenses, registrations or similar requirements of local, state or federal agencies.

Amend 108.2 as follows:

108.2 Definitions. For the purposes of this chapter, the following terms shall have the meaning indicated in this rule.

*“Coal combustion residue”* means any solid waste produced by the burning of coal, either by itself or in conjunction with natural gas or other fossil fuels. It includes, but is not limited to, bottom ash, fly ash, slag, and flue gas de-sulfurization sludge generated by coal combustion and associated air pollution control equipment.

*“Used foundry sand”* means residuals from the foundry industry which are derived from molding, core making, and casting cleaning processes that primarily contain either individually or in combination sand, olivine or clay and which by specified leach test are acceptable for reuse.

*“Wetlands”* means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Delete the remainder of Chapter. 108 and replace with the following.

108.3 User/generator responsibilities.

The following are some of the items that any generator or user of a waste should be aware of as they may determine the appropriateness of the beneficial reuse.

- A. Wastes that are stockpiled prior to use must not be placed in a manner or location where they are subject to scattering by wind, water or scavengers.
- B. If the waste materials are removed from the originating site at intervals of more than six months the department is to be furnished with written documentation specifying the reuse plan, including the anticipated interval times for removal and the location of the storage. Failure to do so could result in the generator being charged with maintaining an open dump.

108.4 Generally acceptable beneficial reuses of solid waste materials.

108.4(1) Coal Combustion Residues (CCR)

- A. As a raw material in the manufacture of cement, asphaltic products, shingles, wallboard, plastics and ceramics and similar uses.
- B. As an aggregate or admixture in concrete, soil cement, or asphaltic mixtures.
- C. As sub-base or wear surface for roads, parking lots, and trails. It may be used as sub base for structures, levees and dikes.
- D. As a soil conditioner, subject to the limitations contained in Chapter 121,3 of the departments rules. When applied directly to farmland it shall be incorporated within 10 days of application.
- E. As daily cover and the seal layer of the intermediate and final cover at landfills provided that it is mixed with the soil in a ration that does not exceed 50 per cent, by volume. It may be used as a soil conditioner in the uncompacted surface layer of the intermediate and final cover in amounts that will not inhibit or slow the establishment of permanent vegetative growth.

#### 108.4(2) Used foundry sand.

A representative sample of the used foundry sand shall be collected and subjected to the Toxic Characteristic Leachate Procedure (TCLP) specified in the federal register at 40 CFR part 261, appendix II and if no value exceeds 50% of the leachate classification limit given in 40 CFR 261.24 the used foundry sand is considered acceptable for the following reuses.

A. As daily cover at a sanitary landfill in accordance with the conditions stated in the landfill permit.

B. As fill base for roads, parking lots, dikes and levees, and similar applications.

C. As aggregate in concrete.

D. As bedding material in trenches for underground conduits other than potable water lines.

#### 108.5 Procedures for determining the acceptability of a proposed reuse.

The amount of ongoing reuse of materials that would otherwise be treated as a solid waste is very large. It is inevitable that the variety of beneficial reuses will increase with time. It is not uncommon for generators/users to be concerned that the reuse being contemplated could be considered unacceptable after a considerable effort and expense has been invested. This section attempts to provide guidelines to be followed in obtaining the department's opinion regarding the acceptability prior to initiation of the reuse. To repeat, the department encourages recycling and reuse and is likely to reject a proposal only when the public health or the environment would be at risk.

A. A call or personal contact with the department may be made to identify the proposed reuse. It is possible that the project being considered has been or is being conducted elsewhere in the state and the department can confirm that there is no concern with or objection to the proposed reuse.

B. A written submission may be submitted to the department providing the following details, as appropriate:

1. The name and address of the responsible waste generator and user.
2. The source and location(s) of the waste generation and the location(s) of the beneficial use, including a map of the area of proposed use.
3. A full description of the waste constituents.
4. A full description of the proposed reuse.
5. If the proposed use could potentially result in the release of organic materials or chemical constituents to the environment the department will likely require an analysis or a Toxic Characteristic Leaching Procedure (TCLP) test for the compounds or elements suspected of being present, or both, before indicating acceptance of the proposed reuse.

#### 108.6 Potential problematic reuses

The following information items are provided to illustrate some of the more common objections to reuse proposals.

A. Depositions in a gully, ravine, wash, excavation or basement. Some persons have assumed that such depositions represent "land reclamation" and are, therefore, a beneficial reuse. Generally, such practices provide little reclamation benefit and are little more than an excuse for open dumping.

B. Placement or temporary storage at an unsecured site where the presence of wastes would be likely to attract illegal dumping. Wastes which are difficult or expensive to dispose of, such as hazardous wastes, are likely to find their way to such a site and the responsible party is difficult to determine.

- C. The use or storage of a waste where its presence is likely to be a) aesthetically objectionable, b) an attractive nuisance, c) a harborage for insects and rodents.
- D. The use or storage of the waste could result in wind or water carriage to neighboring properties or bodies of water.

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## Chapter 110

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Amend Chapter 567--110 as follows;

567--110.7(455B) Monitoring system plan.

567--110.7(455B) Monitoring system plan.

A hydrologic monitoring system shall be designed to intercept the ground water and surface water flow paths from the site. The plan shall include proposed locations and depths for monitoring wells in accordance with monitoring well siting criteria in ~~567--110.1(2)~~. 110.10. Monitoring wells shall be designed in accordance with ~~567--110.1(3)~~. 110.11. The surface water monitoring plan shall include monitoring points on all standing and flowing bodies of water which will receive surface water runoff or ground water discharge from the site. For streams, sampling points upstream and downstream of areas of potential impact from the site should be selected.

567--110.11(455B) Monitoring well/soil boring construction standards.

110.11(1) General considerations

A. Contractors involved in construction of monitoring wells and piezometers and soil boring activities shall be registered with the department as required in ~~1567--Chapter 37-82~~.

567--110.12(455B) Sealing abandoned wells and boreholes.

Boreholes, piezometers and observation wells not used for ground water monitoring must be sealed: in accordance with applicable 567-chapter 39 requirements and the procedures defined under chapter 110. Document in writing the well or borehole legal property location, site owner and abandonment information utilizing departmental forms 542-1226. Include the location of the abandoned well or borehole with reference to the landfills coordinate system and method of sealing. The document must be retained at the landfill with a-copy copies sent to the departments water supply and solid waste sections.

Mr. Stokes explained the rules in detail. He noted there is a rumor that DNR staff are dead set on these rules or nothing. He related that there is only one thing about the rules that he is dead set on and that is that there are at least two significant policy decisions he feels are appropriate to bring forward to the Commission who are the policy setters for making a decision. He added that those are the two issues the Commission heard numerous comments on this morning. Mr. Stokes stated that the height restriction appearing on Page 12, Item G, is an attempt to address aesthetics which is an issue staff has heard about from citizens, local units of government, and several Commissioners. He noted that they are arbitrary numbers. He stated that the height restrictions can be addressed by local zoning or siting approval if it is a new sanitary landfill, but that part of the Code does not apply to expansions of existing sanitary landfills at existing sites. Mr. Stokes noted that the second issue relates to the demolition waste disposal, adding that staff worked with a small group of folks which included representatives of the professional landfill community. He related that staff have heard from local governments,

particularly in the SW and Western part of the state, concerns about what they viewed as prohibitive costs for demolishing buildings, hauling it to a landfill and paying tipping fees. He noted that the professional landfill community said maybe all of the rules that apply to municipal solid waste landfills should not apply to monofil single source kinds of landfills, and that if there were more streamlined kinds of provisions for permitting separate cells or separate locations it would make sense. He related that the staff have worked with the landfill group and have heard from the other side of the issue and attempted to try to negotiate agreement between all parties and was not able to reach a consensus on all issues. He added that the rules also provide specifically tailored rules to address disposal of coal combustion fly ash. He noted that the issues the Commission needs to resolve are whether there will be any kind of proposal for height restriction, and whether or not the streamlined demolition waste disposal rules should be limited to only permitted sanitary landfills. He outlined the following three options the Commission could take: 1) approve the rules as presented; 2) approve the rules with the deletion of the section addressing the height restriction on Page 12, Item G, and the section on Page 14, Item A, or change it to say "permitted sanitary landfills" rather than "permitted landfills"; or 3) not approve the rules at all at this point. He urged the Commission to go with option 1 or 2.

*Motion was made by Rozanne King to approve the Notice of Intended Action--Chapters 102 & 103, Solid Waste Rules with the deletion of the height limitations altogether and relegating the demolition waste to a permitted sanitary landfill. Seconded by Terrance Townsend.*

Discussion followed into regard to having a trained person on site; the great strides made in Iowa in the last 10-15 years; and defining construction and demolition waste.

Mr. Stokes pointed out that the rule does not address construction waste, only demolition waste.

Gary Priebe expressed concern about where the leachate will go if there is no height restriction and no landfill liner.

Further discussion took place regarding clay base requirements and also requirements for new landfills to have monitoring wells.

*Chairman Ehm requested a roll call vote on Commissioner King's motion. "Aye" vote was cast by Commissioners Townsend, Venner, Giannetto, King, McWilliams, Mohr, and Ehm. "Nay" vote was cast by Commissioner Priebe. Motion carried on a vote of 7-Aye to 1-Nay.*

**APPROVED WITH AMENDMENTS AS REQUESTED BY THE  
COMMISSION**

## **FINAL RULE--CHAPTER 50, 51, AND 52, AGRICULTURAL DRAINAGE WELLS**

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

Commission approval is requested on the attached draft final rule regarding agricultural drainage wells (ADWs). The rules as proposed would implement a program to regulate ADWs.

The proposed rules were published as a Notice of Intended Action in the September 10, 1997 Iowa Administrative Bulletin and comments were accepted through October 14, 1997. The comments received and the Department's responses to the comments are summarized in the attached responsiveness summary.

A number of changes were made to the draft final rule but most changes were made for the purpose of clarification or were relatively minor changes. Two significant changes that were made involve nitrogen management and feedlot runoff:

- Nitrogen management - The rules as proposed in the NOIA would have prohibited the fall and winter application of nitrogen on lands drained by ADWs. This prohibition is not contained in the draft final rule.
- Feedlot runoff - The rules as originally proposed would not have allowed runoff from feedlots to be discharged across lands drained by an ADW. The draft final rule does not include this prohibition but does indicate the Department will evaluate the need for feedlot runoff controls on a case-by-case basis.

If approved by the Commission, it is anticipated the rules will become effective on February 18, 1998.

### **ENVIRONMENTAL PROTECTION COMMISSION [567]**

#### **Adopted and Filed**

**DRAFT 11/26/97**

Pursuant to the authority of Iowa Code sections 455B.263, 455B.268, 455B.278, and 1997 Iowa Acts, Senate File 473, the Environmental Protection Commission has adopted amendments to Chapter 50, "Scope of Division - Definitions - Forms - Rules of Practice," Chapter 51, "Water Permit or Registration - When Required," and Chapter 52, "Criteria and Conditions for Authorizing Withdrawal, Diversion and Storage of Water."

The adopted amendments implement a program to regulate agricultural drainage wells. The amendments require that certain agricultural drainage wells be closed but allows the continued use of other drainage wells provided that a permit is obtained from the Department of Natural Resources. Permits for the continued use of a drainage well will be issued subject to various conditions, including the implementation of best management practices for the drainage well and lands that are drained by the drainage well.

Notice of Intended Action was published in the September 10, 1997 Iowa Administrative Bulletin as ARC 7509A. Comments on the proposed amendments were accepted through October 14, 1997. Public hearings were also held at Charles City, Humboldt, and Des Moines to take oral and written comments. Written comments were received from three public interest organizations and eight individuals. In



addition, a number of persons presented oral comments at the public hearings. The comments received and the department's responses to those comments have been summarized in a public interest responsiveness summary. A copy of this document has been filed with the administrative rules coordinator and is available from the department of natural resources.

The adopted amendments differ from the amendments as proposed in the Notice of Intended Action. Many of the changes were made for clarification purposes and are not significant in terms of requirements for agricultural drainage wells. For instance, changes were made to clarify that permits are an appurtenance of the land described in the permit and transfer with land ownership, as stipulated in Iowa Code section 455B.265. Other changes were more significant and these changes are summarized below:

- Permit renewal - Language was added to clarify that a permit for an agricultural drainage well will not be renewed if a viable alternative exists at the time of renewal. It is possible that viable alternatives will become available (e.g., construction of an alternative drainage system) in the ten year permit period and if this is the case, the permit would not be renewed and the drainage well would have to be closed when the permit expires.
- Viable alternative - A permit for the continuing use of an agricultural drainage well will not be granted if an economically and physically viable alternative exists. More specific language was added to indicate what factors the department will consider in making a determination if there is a viable alternative.
- Nitrogen management - The adopted amendments require that nitrogen not be applied to lands drained by agricultural drainage wells in excess of the nitrogen use levels necessary to obtain optimum crop yields. The rules as proposed in the Notice of Intended Action would have prohibited the fall and winter application of nitrogen. This prohibition has been eliminated from the adopted amendments.
- Feedlot runoff - The amendments as proposed in the NOIA would not have allowed runoff from feedlots to be discharged across lands drained by agricultural drainage wells. This prohibition is not included in the adopted amendments. The Department of Natural Resources will, however, evaluate the contamination risk of feedlots located in agricultural drainage well areas on a case-by-case basis to determine if feedlot controls are needed.

These amendments were adopted by the Environmental Protection Commission at its December 15, 1997 meeting and will become effective on February 18, 1998.

These amendments are intended to implement Iowa Code chapter 455B, division III, part 4, and 1997 Iowa Acts, Senate File 473

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The following amendments are adopted:

ITEM 1. Rule 567--50.2(455B) is amended as follows:

*"Agricultural drainage well"* ~~is means~~ a vertical opening to an aquifer or permeable substratum, which has been drilled, driven, dug, bored, augured, jetted, washed, cored or otherwise constructed and which

~~intercepts or receives or is constructed by any means including but not limited to drilling, driving, digging, boring, auguring, jetting, washing, or coring, and which is capable of intercepting or receiving surface or subsurface drainage water from agricultural land directly or by a drainage system.~~

Rule 567--50.2(455B) is further amended by adding the following new definitions in alphabetical order:

"Agricultural drainage well area" means an area of land where surface or subsurface water drains into an ~~agricultural drainage well directly or through a drainage system connecting to the agricultural drainage well.~~

"Designated agricultural drainage well area" means an agricultural drainage well area in which there is located an anaerobic lagoon or earthen manure storage structure which requires a construction permit under 567-Chapter 65.

"Drainage system" means tile lines, laterals, surface inlets, or other improvements which are constructed to facilitate the drainage of land.

"Earthen storage structure" means an earthen cavity, either covered or uncovered, including but not limited to an anaerobic lagoon or earthen manure storage basin which is used to store manure, sewage, wastewater, industrial waste, or other waste as regulated by the Department of Natural Resources, if stored in a liquid or semi-liquid state.

"Pesticide" means (a) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating directly or indirectly any insects, rodents, nematodes, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living persons, which the Secretary of Agriculture shall declare to be a pest, and (b) any substance intended for use as a plant growth regulator, defoliant, or desiccant.

"Surface water" means water occurring on the surface of the ground.

"Surface water intake" means an artificial opening to a drain tile which drains into an agricultural drainage well, if the artificial opening allows surface water to enter the drain tile without filtration through the soil profile.

ITEM 2. Subrule 50.3(1) is amended as follows:

**50.3(1) Application forms.** The following application forms are currently in use:

Form 16: Application for Permit to Divert, Store, or Withdraw Water for Beneficial Use. 1/84. 542-3105.

Form 17: Application for Permit to Use Water for Irrigation. 1/84. 542-3106.

Form 18: Application for Permit to Store Water for Beneficial Use. 7/83. 542-3109.

Form 19: Application for Permit to Divert or Withdraw Water for Production and Processing of Sand, Gravel, or Rock Materials. 1/84. 542-3110.

Form 20: Registration of Minor Nonrecurring Use of Water. 7/84. 542-3112.

~~Form 542-0986: Registration of Agricultural Drainage Wells. 10/87~~

Form 542-1539: Application for Use of an Agricultural Drainage Well

ITEM 3. Amend rule 567--50.4(17A, 455B) as follows:

**567—50.4(17A, 455B) How to request a permit.****50.4(1) Form of application.**

- a. Application for approval of a new withdrawal, diversion or storage of water *unrelated to the use of an agricultural drainage well. For withdrawals, diversions, or storage of water unrelated to the use of an agricultural drainage well, A* request for a new as distinguished from modification or renewal of an existing permit shall be made on a form obtained from the department. An application form must be submitted by or on behalf of the owner, lessee, easement holder or option holder of the area where the water is to be withdrawn, diverted or stored, and used. An application must be accompanied by a map portraying the points of withdrawal or diversion and storage, and the land on which water is to be used oriented as to section, township, and range. One application normally will be adequate for all uses on contiguous tracts of land. Tracts of land involved in the same operation separated only by roads or railroads will be deemed contiguous tracts.
- b. *Application for diversion of water related to the use of an agricultural drainage well. An application for the diversion of water and any other materials to an aquifer related to the use of an agricultural drainage well shall be made on a form obtained from the department and be submitted by or on behalf of such owners, lessees, easement holders, or option holders of all lands within the agricultural drainage well area. If the agricultural drainage well is part of a legally organized drainage district, the drainage district shall be a joint applicant. Applications for permits for diversions related to the use of an agricultural drainage wells that existed prior to (insert effective date of rules) shall be made by July 1, 1998 with the exception of agricultural drainage wells that must be closed to comply with the provisions of 1997 Iowa Acts, Senate File 473. An application will not have to be filed for wells in a designated agricultural drainage well area which must be closed by December 31, 1999. In addition, the Department may grant up to an eighteen month delay in the application date for owners of agricultural drainage wells where it can be shown there is a reasonable expectation that the agricultural drainage well will be voluntarily closed by December 31, 1999.*
- bc. Application for modification or renewal of a permit. A request for renewal of a permit need not be submitted on an application form. A letter identifying the permittee and permit number and requesting renewal is sufficient. To request modification of a permit the letter must also clearly identify each modification desired and the reasons why each modification is needed.
- ed. Where to submit application. An application must be mailed or delivered to the Water Supply Section, Environmental Protection Division, Department of Natural Resources, East 9th and Grand, Des Moines, Iowa 50319.

**50.4(2) Application fee.** A nonrefundable fee in the form of a check or money order in the amount of \$25 payable to the Department of Natural Resources must accompany an application for a new permit to withdraw or divert water. The same fee must accompany an application for modification or renewal of a permit to withdraw or divert water. No fee is charged for an application to store water or an application for registration of a minor nonrecurring use of water. *No fee is charged for an application for a permit to divert water to an aquifer related to the use of an agricultural drainage well.*

**50.4(3) Supporting information required for complete application.** An application shall not be considered complete until the fee specified in this rule and all supporting information requested under 50.6(17A, 455B) ~~of these rules~~ have been submitted by the applicant or agents of the applicant.

ITEM 4. Subrule 50.6(4) is amended as follows:

**50.6(4)** Application for permit to divert water into an aquifer *not related to the use of an agricultural drainage well.* An applicant for a permit to divert water or any other material from the surface into an aquifer *not related to the use of an agricultural drainage well* shall submit information showing that the requested diversion will not pollute the aquifer.

ITEM 5. Rule 567--50.6(455B) is amended by adding the following new subrule:

**50.6(7)** Application for permit to divert water into an aquifer related to the use of an agricultural drainage well. An applicant for a permit to divert water or any other material into an aquifer by means of an agricultural drainage well shall submit the following information. The locations of the features as listed below shall be shown on a map drawn to scale submitted with the application.

- a. ~~Location of the agricultural drainage well to at least the nearest quarter-quarter section, township and range.~~
- b. Diameter and depth of the agricultural drainage well, if known.
- c. Description and ownership of the lands which are drained by the agricultural drainage well and the associated drainage system.
- d. Location of tiles which drain to the agricultural drainage well, if known, and the location of any existing surface water intakes.
- e. The location and description of any earthen storage structures, confinement feeding operations, or open feedlots within the agricultural drainage well area.
- f. Information regarding any known connections between the agricultural drainage well or its drainage system and wastewater disposal or storage systems such as septic tanks and the location of such connections.
- g. The nature and extent of any agreements between the well owner and adjacent landowners who have lands which are drained by the agricultural drainage well and associated tile drainage system.
- h. Any available information regarding the economic and physical feasibility of closing the agricultural drainage well.

ITEM 6. Subrule 50.7(2) is amended as follows:

**50.7(2)** Summary report of application review. Before an initial decision is issued on an application, personnel assigned to review an application shall prepare a summary report which shall state whether the *withdrawal, diversion, or* use of water as described in the complete application conforms to relevant criteria. The report shall identify the information used to determine the potential for ~~the~~ a proposed use of water to adversely affect other water users. For an application to withdraw groundwater, the report shall describe the effects on water levels anticipated to occur from the proposed use; indicate if verified well interference has been found; and provide options for resolving any verified well interference in accordance with chapter 54 of the department's rules.

ITEM 7. Subrule 50.7(4) is amended as follows:

**50.7(4)** Notice to the applicant that proposed *withdrawal, diversion or* use of water does not conform to criteria. If the application review discloses that the proposed *withdrawal, diversion or* use of water violates one or more criteria and the application should therefore be disapproved, or approved only subject to special conditions to which the applicant has not agreed, the department shall notify the applicant and, when practical, suggest appropriate project modifications. The department shall offer the applicant an opportunity to submit comments before an initial decision is made.

ITEM 8. Subrule 567-50.8(2) is amended as follows:

**50.8(2)** Notice of initial decision. Copies of the initial decision shall be mailed to the applicant, any person who commented pursuant to 50.7(3), and any other person who has requested a copy of the decision. The decision may be sent by ordinary mail, first class, and shall be accompanied by a

certification of the date of mailing. An initial decision becomes the final decision of the department unless a timely notice of appeal is filed in accordance with 50.9(17A,455B). *The final decision may be filed with the appropriate county recorder to give constructive notice to future landowners of any conditions or requirements imposed by the final decision.*

ITEM 9. Rule 567--51.3(455B) is amended as follows:

~~567--51.3(455B) Diversion from surface into aquifer.~~ A permit is required for diversion of water or any other material from the surface directly into any aquifer, *including diversion by means of an agricultural drainage well.* Diversion by tile or ditch into a sinkhole or quarry excavated in carbonate rock is presumed to be a diversion from the surface directly into an aquifer in the absence of convincing evidence to the contrary.

ITEM 10. Rule 567-52.5(455B) is amended as follows:

**567—52.5(455B) Duration of permits for withdrawal or diversion of water.**

**52.5(1) General.** *A permit granted shall remain as an appurtenance of the land described in the permit through the date specified in the permit and any extension of the permit or until an earlier date when the permit or its extension is canceled under 567-52.7(455B). Upon application for a permit prior to the termination date specified in the permit, a permit may be renewed by the department.*

**52.5(12) Permits for withdrawal or diversion of surface water.** Permits for withdrawal or diversion of surface water shall be issued for ten years.

**52.5(23) Permits for withdrawal of groundwater.** Permits for withdrawal of groundwater shall be issued for a maximum period of ten years and may be granted for less than ten years if geological data on the capacity of the aquifer and the rate of its recharge are indeterminate.

This rule is intended to implement Iowa Code section 455B.265.

ITEM 11. 567-Chapter 52 is amended by adding the following new rule.

**567-52.21 Permits to divert water to an agricultural drainage well.**

**52.21(1) Approval criteria.** An application for a permit to divert water or other material to an aquifer by means of an agricultural drainage shall not be approved if: i) the agricultural drainage well is located within a designated agricultural drainage well area or ii) the drainage well is to be constructed after (insert effective date of rule). An initial permit for the diversion of water or any material to an aquifer by means of an agricultural drainage well shall be based on a finding that the following criteria are satisfied. Renewal of such a permit shall be made only upon a finding that such owners, lessees, easement holders, or option holders are in compliance with the conditions of the initial permit or any permit issued thereafter and that the agricultural drainage well meets applicable approval criteria, including 567-52.21(1)“c”.

a. The application for the permit has been submitted by or on behalf of all owners, lessees, easement holders, or option holders of all lands which are drained by the agricultural drainage well.

b. There is reasonable assurance that the applicant(s) can minimize the contamination potential to the aquifer through closure of surface water intakes, elimination of any septic system connections, and other appropriate management practices including nutrient and pesticide management as required under 567-52.21(2).

c. There are no economically and physically viable alternatives to the use of the agricultural drainage well. The department will consult with the division of soil conservation, department of agricultural and land stewardship, and other parties with drainage expertise as necessary to determine if viable

alternatives exist. In determining whether a viable alternative exists, the department will consider all relevant factors, including the following.

- (1) The impact that closure of the ADW would have on lands drained by the agricultural drainage well if an alternative drainage system is not provided.
- (2) The cost and feasibility of providing an alternative outlet. Alternative drainage systems constructed under the provisions of the alternative drainage system assistance program administered by the Division of Soil Conservation will be considered as a viable alternative to the use of the agricultural drainage well.
- ~~(3) The availability of public assistance for the construction of an alternate outlet or for compensation for loss of productivity on lands drained by the agricultural drainage well.~~
- (4) The results of the engineering study provided for under 567-52.21(2) "1".

**52.21(2) Approval conditions.** Permits granted for the diversion of water or any material to an aquifer by means of an agricultural drainage well shall be subject to the following conditions as appropriate.

- a. Surface water intakes. All surface water intakes shall be removed by December 31, 1998. Additional tile lines may be added to compensate for removal of surface water intakes provided the replacement tile does not increase the size of the agricultural drainage well area. Replacement tiles shall generally conform with the Natural Resources Conservation Services Tile Intake Replacement Interim Standard 980.
- b. Cisterns. Cisterns shall be sealed or otherwise modified as necessary by December 31, 1998 to prevent direct entry of surface water. Compliance with the Natural Resources Conservation Services Wellhead Protection Interim Standard 981 will be considered as complying with this condition. Alternatives to the Interim Standard may be allowed with Department approval.
- c. Access/ventilation. The agricultural drainage well or its cistern shall be provided with a locked cover to prevent unauthorized access. If the agricultural drainage well and the related drainage system is ventilated, ventilation shall be accomplished in a manner that will not allow surface water to enter the agricultural drainage well.
- d. Repair and maintenance. The agricultural drainage well and the associated drainage system may be repaired and maintained as needed to maintain drainage efficiency. The drainage well and associated tile drainage system shall be maintained in a condition so as to prevent surface water which has not filtered through the soil profile from entering the drainage well.
- e. Modifications of drainage well. The agricultural drainage well shall not be modified without Department approval. The related drainage system may be modified without Department approval providing the modifications do not enlarge the agricultural drainage well area. Construction of new surface water intakes is not allowed.
- f. Closure. If the permittee discontinues use of the agricultural drainage well, the department shall be notified and closure shall be made in accordance with 567 - Chapter 39, IAC or by an alternative method approved by the department. The permit will be revoked upon submission of proof that the drainage well was properly closed.
- g. Modification or cancellation of permit. As provided in 567-52.7(455B), the Department may modify or cancel the permit or require the permittee to take other actions to protect the public health and safety, to protect the public interest in lands and waters, or to prevent any manner of substantial injury to persons or property.
- h. Waste systems. Effluent from wastewater treatment or storage systems, including on-site wastewater treatment and disposal systems such as septic systems, shall not be allowed to directly enter the agricultural drainage well or associated tile drainage system. Runoff controls consistent with Chapter 65 requirements and guidance may be required for feedlots that discharge across lands drained by an agricultural drainage well to control manure nitrogen and to eliminate the potential for direct entry of animal wastes into an agricultural drainage well or its drainage system.

- i. Nitrogen management. The application of nitrogen from all sources, including manure, legumes, and commercial fertilizers, on lands within an agricultural drainage well drainage area shall not exceed the nitrogen use levels necessary to obtain optimum crop yields for the crop being grown.
- j. Application of liquid animal wastes. Application of liquid animal waste to lands drained by the agricultural drainage well shall be done in a manner that will not result in a discharge of the waste to the drainage well or associated drainage system.
- k. Application of pesticides. The application of pesticides on lands within the agricultural drainage well area shall be in accordance with the provisions of Iowa Code chapter 206 and rules adopted pursuant to chapter 206.
- l. Alternatives to the use of the agricultural drainage well. Prior to reissuance of a permit for the continued use of an agricultural drainage well, the permittee(s) shall conduct an engineering study of the physical and economic feasibility of alternatives to the continued use of the agricultural drainage well. The study shall comply with the provisions of Iowa Code chapter 542B regarding certification by a licensed professional engineer. The results of the study shall be submitted to the department at least one year prior to a request renew a permit.

### 52.21(3) Closure of existing agricultural drainage wells.

- a. Agricultural drainage wells within a designated agricultural drainage well area. A permit shall not be granted for the diversion of water or other material into an aquifer by means of an agricultural drainage well if the drainage well is located within a designated agricultural drainage well area. All existing agricultural drainage wells within a designated agricultural drainage well area shall be closed by December 31, 1999. Closure shall be in accordance with 567 - Chapter 39, Requirements for properly plugging abandoned wells, or by an alternative method approved by the department. Cisterns shall be filled in or removed and filled in with earth or other suitable material and any tile lines shall be removed for a distance of 10 feet around the wellhead or, alternatively, be replaced with non-perforated pipe. The owner of the land on which the agricultural drainage well is located shall provide the department with notice that the well has been closed in accordance with the requirements of this paragraph. Agricultural drainage wells that have been properly closed will no longer be considered an agricultural drainage well by the department.
- b. Other agricultural drainage wells - Existing agricultural drainage wells that have not been authorized by permit by December 31, 1999 shall be closed by that date unless the Department has granted a waiver to the closure requirements. The closure procedures shall be as specified in 52.21(3)"a."

(A copy of the Public Responsiveness Summary is on file in the department's Records Center)

Mr. Stokes reviewed details of the rules and noted changes made as a result of public comment.

Dean McWilliams asked if the rules restrict application of nitrogen at certain times of the year.

Mr. Stokes explained that the original version of the rule restricted application from September through March, and this version allows application anytime but at the agronomic rates for the cropping structure.

Considerable discussion took place regarding when farmers would be notified to send in their permit application, who determines what is a viable alternative and if it is economically or

physically feasible; whether a landowner has to hire an engineer or can do their own assessment in filling out the application.

Rozanne King asked how many wells this would have an impact on.

Mr. Stokes stated that his best estimate would be about 200-275 ag drainage wells.

*Motion was made by Gary Priebe to approve Final Rule--Chapters 50, 51 and 52, Agricultural Drainage Wells. Seconded by Rita Venner. Motion carried unanimously.*

**APPROVED AS PRESENTED**

#### **FINAL RULE--CHAPTER 44, DRINKING WATER REVOLVING FUND**

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Environmental Protection Commission is requested to give final approval to Chapter 44, the Drinking Water Revolving Fund rules. Section 1452 of the Federal Safe Drinking Water Act authorizes the State Revolving Loan Fund for drinking water-related projects to assist water systems to finance the costs of infrastructure needs and to maintain compliance with SDWA. Authorizing legislation to set up this fund in Iowa was approved in March 1997. Congress has appropriated funds to provide loans. Iowa's allocation is \$16.8 million for FY97 and \$11.2 million for FY98. These rules are needed to administer the revolving loan program. The rules include:

- Definitions of the fund's purpose, including the department's intent to utilize various authorized set-aside provisions within the fund.
- Thresholds for water systems to be eligible for loan assistance.
- A project scoring system.
- Provisions for working with the Iowa Finance Authority, which will be the entity that issues bonds and maintain the loan fund.

These rules were filed as a Notice of Intended Action and six public hearings were held to receive public input. Oral comments from 5 individuals and written comments from 3 individuals or groups were received during the public comment period. In addition, 33 people participated in the public hearings without making specific comments. Written and oral comments addressed 11 subjects. The attached responsiveness summary and U.S. EPA response letter addresses all written and oral comments. Staff recommend no substantive changes to the final rule arising from the public hearing and comment period. Several technical clarifications suggested by U.S. EPA and the Des Moines Water Works are recommended to be adopted.



**ENVIRONMENTAL PROTECTION COMMISSION (567)**  
**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby adds a new Chapter 44, "Drinking Water Revolving Fund," Iowa Administrative Code.

On August 6, 1996 the Safe Drinking Water Act (SDWA) Amendments of 1996 (Pub. L. 104-182) were passed. Section 1452 of this Act authorizes the U.S. Environmental Protection Agency (EPA) to enact a State Revolving Loan Fund (SRF) for drinking water-related projects to help water systems finance the costs of infrastructure needs. Authorizing legislation to set up this drinking water facilities fund in Iowa (House File 191) was approved in March. These rules will enable and administer the infrastructure loan fund.

Notice of Intended Action (NOIA) was published in the Iowa Administrative Bulletin on September 10, 1997 as ARC 7508 A. Six public hearings were held on these rules. Oral comments from 5 individuals and written comments from 3 individuals or groups were received during the public comment period. Several technical clarifications suggested by U.S. EPA and the Des Moines Water Works were adopted. These are summarized within the attached Responsiveness Summary.

The rules define the fund's purpose, including the department's intent to utilize various authorized set-aside provisions within the fund. The rules also contain thresholds for water systems to become eligible for loan assistance, and a project priority scoring system.

New definitions for "authority," "drinking water state revolving fund," "loan agreement," "project priority list," and "significant noncompliance" have been added. The rules also include provisions for working with the Iowa Finance Authority, which will be the entity which issues bonds which will maintain the proposed loan fund.

These rules are intended to implement Iowa Code chapter 455B, division III, part 1, and 1997 Iowa Acts, House File 191 (March 7, 1997).

The following rule is adopted.

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Add a new Chapter 44 as follows:

**CHAPTER 44**  
**DRINKING WATER REVOLVING FUND**

567--44.1(455B) Statutory Authority.

The authority for the Iowa department of natural resources to provide loans to eligible applicants to assist in the construction of drinking water treatment facilities is provided by 1997 Iowa Acts, House File 191.

567--44.2(455B) Scope of title.

The department has jurisdiction over the surface and groundwater of the state to prevent, abate, and control pollution. As a part of that general responsibility, the department and the Iowa finance authority ("authority")~~authority~~ are jointly designated to conduct the administration of the state revolving (SRF) loan program to assist in infrastructure financing projects pursuant to the Safe Drinking Water Act. A project must comply with this chapter to be eligible for an SRF loan. This chapter provides for the background, the general rules of practice for the department's administration of the program, including the criteria for loan eligibility, and the general project and program administration rules.

567--44.3(455B) Purpose.

The state revolving fund program provides financial assistance to eligible public drinking water supplies for the design and construction of facilities to ensure public health and the provision of safe and adequate drinking water. The program reserves a certain percentage of money each year for administrative purposes, to improve and protect source water quality, and to provide technical assistance to smaller drinking water systems. The program is administered by the Iowa department of natural resources ("department"), with assistance from the ~~Iowa finance authority ("authority")~~. The director will coordinate with the authority under the terms of an interagency agreement entered pursuant to Iowa Code Chapter 28E. The Iowa department of natural resources establishes priorities for the use of the State revolving fund, and publishes them each year in its Intended Use Plan (IUP). Published IUPs may include loan funding applications (capitalization grant applications, submitted by the department to the United States environmental protection agency (EPA)) regional administrator for either single or for multiple years, depending on the department's preference and resource utilization plans, as long as the fund account or set-aside account remains in operation. The IUP will identify all proposed uses of available funds and how each will be managed. All potentially funded projects must be approved by the Iowa department of natural resources before they can be considered for certification to the Iowa finance authority.

The United States environmental protection agency provides capitalization grants for this program to the State of Iowa. Financial assistance projects must be in conformance with the requirements of the "Public Health Service Act (42 U. S. C. 300f et seq.)," United States Code, title XIV section 1452, Part E.

567--44.4(455B) Definitions. The following words and terms shall have the following meanings unless the context clearly indicates otherwise:

"Applicable interest rate" means the interest rate applied to each individual loan as determined by the director and in accordance with any agreement with the Iowa finance authority.

"Authority" means the Iowa Finance Authority (IFA) as established by Iowa Code chapter 16.

"Conservation easements" means an interest in land that entitles a person to use the land possessed by another (affirmative easement), or to restrict uses of the land subject to the easement (negative easement). A conservation easement restricts the land owner to uses that are compatible with resource conservation.

"Contiguous" means directly adjacent or touching along all or most of one side (of a legally defined piece of property). Tracts of land involved in the same operation or water supply and separated only by roads, railroads, or bike trails are deemed contiguous tracts.

"Debt service coverage ratio" means the sum of net income plus interest expense plus depreciation, divided by the sum of debt service, principal plus interest, and repayments.

"Department" means the Iowa department of natural resources (DNR). "Director" means the director of the Iowa department of natural resources.

"Drinking water state revolving fund" (SRF) means a State-administered fund intended to develop drinking water revolving loans to help finance drinking water infrastructure improvements, source water protection, system technical assistance, and other activities intended to encourage and facilitate public water supply system rule compliance and public health protection established by 1997 Iowa Acts, House File 191.

"Eligible cost" means the cost of all labor, material, machinery, equipment, loan initiation and loan service fees, design and construction engineering services, legal fees and expenses directly related to the project, capitalized interest during construction of the project, and all other expansion, construction, and rehabilitation of all or part of a project incurred after the date of approval of an intended use plan (IUP) which contains the project on a list of projects which are approved for SRF loan assistance.

"Fiscal year" means the federal fiscal year starting October 1 and ending September 30.

"Intended use plan" (IUP) means a plan identifying the intended uses of funds available for loans in the SRF for each fiscal year as described in Section 1452 of the Safe Drinking Water Act.

"Loan agreement" means an executed contract between a loan applicant and the director and the authority, confirming the purpose of the loan, the amount and terms of the loan, the schedule of the loan payments and requirements, and any other agreed-upon conditions set forth by the director and the authority.

"Project priority list" means the list of projects in priority order that may qualify for SRF loan assistance contained in the IUP document prepared pursuant to subrule 44.8. The priority list shall identify all projects eligible for funding and the points assigned to each project pursuant to subrule 44.7(8).

"Public water supply system" (also referred to as a system or a water system or PWS) means a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the supplier of water and used primarily in connection with such system, and (2) any collection (including wells) or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public water supply system is either a "community" water system" or a "noncommunity water system."

1. "Community water system" means a public water supply system which has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

2. "Noncommunity water system" means a public water supply system that is not a community water system.

"Significant noncompliance" means the failure to comply with any ~~primary~~ primary national drinking water standard as adopted by the State of Iowa according to criteria established by the administrator of the federal environmental protection agency.

"SRF funds" means the combination of a particular fiscal year's federal capitalization grant appropriation plus the 20% State of Iowa match.

"Viability" means the technical, financial, and managerial ability to comply with applicable national primary drinking water standards as adopted by the State of Iowa.

Viability is the ability of a system to remain in ~~substantial~~ compliance insofar as the requirements of the SDWA.

#### 567--44.5(455B) Set-asides.

The Safe Drinking Water Act (SDWA, or "Act") authorizes set-aside funds to enable states to implement specific requirements of the Act. The amount and use of set-aside money is set each year in the IUP (pursuant to rule 44.8) and may be adjusted from year to year based on available funds and priorities as outlined in the IUP. As prescribed in the Act, set-asides will include but are not limited to:

44.5(1) Administration expense set-aside --- These set-aside funds are to be used to administer the State revolving loan fund (SRF). This includes loan portfolio management, debt issuance, SRF program startup and other administrative costs, financial, management, and legal consulting fees, and related support services. This set-aside allows a maximum of 4% of the total available federal capitalization grant and state match funds in a particular year.

44.5(2) Small system technical assistance set-aside --- These set-aside funds will be used to provide technical assistance to public water supplies serving 10,000 people or fewer. This set-aside allows a maximum of 2% of the total available federal capitalization grant and state match funds in a particular year. Applications for third party technical assistance proposals must be submitted and will be accepted and evaluated pursuant to subrules 44.7(2) through (8) prior to publication of the IUP in a given year.

44.5(3) Source water protection implementation set-aside --- These set-aside funds will be used to delineate and assess source water protection areas, and may be used to establish and implement source water and wellhead protection programs. This set-aside allows a maximum of 15% of the total available federal capitalization grant and state match funds in a particular year. Up to 10% of the total funds (67% of this set-aside) will be used by the department in the first two years of the SRF to delineate and assess source water protection areas; some of these funds may be sub-contracted to third parties to perform aspects of this work. Source water (quality partnership) petition programs (made by individual or consortiums of public water systems) established under Section 1454 of the SDWA Amendments will be eligible for money under this set-aside. Applications for third party source water petition proposals must be submitted and will be accepted and evaluated pursuant to subrules 44.7(2) through (8) prior to publication of the IUP in a given year.

44.5(4) State program management set-aside --- This set-aside money may be reserved for public water supply supervision programs, to include watershed protection, wellhead protection, operator certification, drinking water information management system development, and viability assessment efforts. This set-aside allows a maximum of 10% of the total available federal capitalization grant and state match funds in a particular year, and any additional State funds required to meet EPA SRF grant requirements."

#### 567--44.6(455B) Eligibility.

The following systems are eligible to receive funds from the Iowa drinking water revolving loan fund, for health improvements as listed and defined in the Safe Drinking Water Act, as amended (the "Act").

- Community drinking water ~~systemssupplies~~
- Nonprofit nontransient noncommunity drinking water ~~systemssupplies~~
- Cities and counties that are PWS or can become viable new PWS as a result of this project.

- Any other governmental subdivision of the state responsible for a public water supply, ~~the treatment and distribution of piped drinking water for human consumption, serving a minimum of 15 connections or an average of 25 people daily for at least 60 days of the year.~~
- No assistance shall be provided to any loan applicant who has not adopted and implemented satisfactory department-approved water conservation plans and practices, or demonstrated to the department an on-going effort to adopt and implement such plans and practices within one calendar year from the date of the loan agreement.
- No assistance shall be provided to any loan applicant in significant noncompliance with any applicable primary drinking water regulation, unless the project will return the loan applicant to compliance.
- No assistance shall be provided to any loan applicant lacking viability (applicants whose systems lack technical, financial, and managerial viability to comply with the Act and are non-viable or lack capacity per the definition of the Act), unless the loan applicant commits to undertake appropriate changes in operations, including ownership, management accounting, rates, maintenance, consolidation, alternative sources of water supply, or other procedures if the director determines that such changes are necessary to demonstrate viability.
- No assistance shall be provided for projects and activities deemed ineligible for participation in the drinking water SRF program by the U.S. environmental protection agency's February 28, 1997 guidelines, or the department.

567--44.7(455B) Project point ranking system (Project Priority List).

44.7(1) The director shall develop and maintain a Project Priority List of public water systems that have a need for either a new or an upgraded drinking water system (including individual sub-components). The term "public water system projects" may also include separate segments or phases of a segmented or phased project. The Project Priority List may include projects which are not ready to proceed (e. g., it may include projects by their nature planned and implemented for a longer term than one year or those unable to be implemented within one calendar year), but letters of intent for such projects must be received by the department for the projects to proceed within 5 years of the submitted letter of intent, or they shall not receive funding. Projects may be construed as not ready to proceed due to lack of fiscal capability (of either the loan applicant or of the State), due to emergencies experienced by the applicant (or the State), or due to construction or other scheduling constraints. Projects may ~~will~~ continue to be eligible for loan funding ~~if they are when~~ funded for the first year of a multi-year segmented project effort. However, the project applicant must resubmit the project for, but they must re- ~~complete for priority ranking each subsequent in that particular year during the life of a project.~~

44.7(2) At least once each year, the director will provide notification to eligible water supplies that applications for placement on the Project Priority List are being accepted by the department. The notice shall include the schedule for submittal of the requirements listed in subrule 44.7(6), in order to be placed on the Project Priority List.

44.7(3) At least once each year or more often as necessary, the department may amend the Project Priority List to add eligible projects. List adjustment can be done to assure that the department uses at least 15% of all funds credited to the SRF account to provide loan assistance to systems serving fewer than 10,000 persons (allowable under section 1452(a)(2) of the Act), to the extent that there are a sufficient number of eligible projects to fund. List adjustment can also

be made to maintain the fiscal integrity of the bond fund, pursuant to rule 44.8 and the annual published IUP's short and long term goals.

44.7(4) To be eligible for placement on the Project Priority List, the water system must have an preliminary engineering study of potential system needs (e.g., a "planning" study) approved by the department, and must submit a written application for placement on the List to the director. The application must include

1. a description of the type of project for which financial assistance is being requested,
2. the amount of financial assistance being requested, and
3. a proposed preliminary project construction schedule.

Application shall be made on an SRF application package form provided by the department; the applicant may include additional information in the application. Applicants must re-apply each year to be placed on the Project Priority List. Forms can be obtained from the Environmental protection division, Iowa department of natural resources, Henry A. Wallace Building, 502 E. 9th Street, Des Moines, IA 50319-0034.

44.7(5) Reserved.

44.7(6) Applicants seeking financial assistance for construction must include with their application:

1. a description of the entity's current drinking water supply system, including a discussion of existing and potential problems or failures in the current drinking water system (including compliance with state and federal criteria),
2. an estimate of the population and the number of households to be served,
3. annual operating cost projections for a minimum of five years, if feasible, and historical annual operating costs for a period of the immediate past three years, to include balance sheets and income statements, where applicable.
4. a description of the basis for project design,
5. a description of the financial management system, and
6. a map showing the geographical area that the project is expected to serve.

A cost estimate for the selected project must also be included with the submission. A construction project's priority points shall be the total number of points assigned by the department pursuant to the department's scoring system, delineated in subrule 44.7(8).

44.7(7) All projects shall be listed in descending order on the published Project Priority List according to the number of total priority points assigned each project. When two or more projects have the same priority point total, the project sponsored by a system in the process of consolidation shall receive the higher priority. A private ~~non-public~~ system in the process of forming and becoming a PWS shall have the next highest priority (if the system is determined by U.S. EPA regulations or guidance to be eligible for SRF funding), and the entity with the smallest served population shall receive the next highest priority. The most current official census population shall be used for all municipalities which apply for these loan funds. Nontransient noncommunity systems will be counted based on either the actual population verifiable by the department, or population as calculated by multiplying by an occupancy factor of 2.5 persons per service connection. New systems will be counted based on either census data, an occupancy factor of 2.5 persons per service connection, an occupancy factor of 2.5 persons per identifiable occupied building, or other means acceptable to the department. Funding shall be offered to the projects with highest rank on the Project Priority List (subject to the project's readiness to proceed), and shall proceed from highest project downward subject to availability of

funds. No project is eligible for more than 50 percent (50%) of the total available funds in any single calendar year. No project is eligible for a loan of less than \$50,000. Projects comprising for-profit water systems may make up no more than 10% of the Project Priority List in any given year. Private water companies are eligible to receive loans from the funds generated by the sale of state tax-exempt bonds. The EPC may adjust these maximum and minimum loan figures in a given year pursuant to their final approval of the fiscal year's IUP. The published Project Priority List shall also be included in the department's annual Intended Use Plan (IUP), pursuant to rule 44.8.

44.7(8) Eligible public drinking water supply projects shall be scored pursuant to the following priority point scoring system.

### IOWA SRF PROJECT SCORING SYSTEM

(Multiple attributes within a lettered subcategory are not additive, but points are additive from other subcategories; consolidation/restructuring is an approved option to correct violations or "improve" treatment)

Scoring Criterion	Points
-------------------	--------

**A. Water Quality & Human Health Risk-related Criteria (maximum of 60 points)**

- |   |    |
|---|----|
| 1. Acute MCL violation corrected (fecal coliform, e. coli, nitrate, SWTR including turbidity & Giardia)   | 60 |
| 2. Chronic MCL violation corrected (all non-acute MCLs including heavy metals, SOCs, VOCs)  | 50 |
| 3. Treatment technique requirement correction (Pb/cu corrective measures, CT time corrective measures, disinfectant residual corrective measures)   | 40 |
| 4. Imminent threat from groundwater contamination (from UST site, from CERCLA site, from uncontrolled site)   | 35 |
| 5. Connection of individual residences to PWS to eliminate use of contaminated individual private wells (bacterial, nitrate, or IOC/VOC/SOC well contamination all eligible)                                | 35 |
| 6. Intermittent <u>non-acute</u> MCL violation correction ( <u>generally defined as more than 4 MCL's of a single contaminant in 3 years</u> ) <del>more than 4 MCLs/ 3 years is the cutoff criterion</del> | 25 |
| 7. Lead or asbestos cement pipe replacement (replace at least 200 feet of pipe)   | 15 |

**B. Infrastructure & Engineering-related Improvement Criteria (maximum of 35 points)**

- |   |    |
|---|----|
| 1. System redundancy and/or additional source to meet peak day demand | 35 |
|---|----|

w/ largest well or intake out of service)); Plant process rehabilitation (made to assure redundancy of treatment units to protect against acute or chronic MCL with system's largest treatment unit out of service); Water storage improvements (system reliability enhancement --- to increase effective storage to Avg. Daily Demand, including either at-ground and elevated storage); Pumping improvements meeting hydraulic & ten-State Standard requirements for Avg. Daily Demand.

- |  |    |
|--|----|
| 2. Capacity expansion (points allowable only when system is operating at 85% or over of system capacity (source, plant, or distribution system capacity improvements are all eligible))  | 30 |
| 3. Pressure improvements, including pump upgrades, pipe looping and pressure reduction valves such that avg. distribution system pressure increases by more than 10 psi in project area. | 20 |
| 4. Other distribution system enhancement (e.g., valves, fittings, line replacement, hydrants, pumping stations)  | 20 |
| 5. Provision of emergency power/ emergency pumping capacity including purchase of diesel generators or installation of automatic switching systems                                       | 15 |
| 6. Rectify excessive water loss per established water conservation plan (more than 15% of water must be unaccounted for to be eligible for points)                                       | 10 |

**C. Affordability Criteria (maximum of 10 points)**

- |   |    |
|---|----|
| 1. System serves low income population (Community Development Block Grant (CDBG) Iowa Department of Economic Development (IDED) Low-Moderate Income Criteria (LMI)) | 10 |
|---|----|

**D. Special Category Improvements (maximum of 15 points)**

- |  |    |
|--|----|
| 1. Wellhead protection (detailed contaminant inventory, contingency plan, conservation easements, and land acquisition)            | 15 |
| 2. Source protection (detailed contaminant inventory, contingency plan, conservation easements, and land acquisition)              | 15 |
| 3. Water Conservation Measures/Conservation Plan preparation insofar as new water conservation ordinances are adopted and enforced | 5  |

**E. IDNR Adjustment Factor for Population---use 1 score only**

- |   |    |
|---|----|
| 1. (Project Serves) Population less than 10,000 | 10 |
|---|----|

<b><u>TOTAL MAXIMUM POINTS</u></b>	<b><u>130</u></b>
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567--44.8(455B) Intended Use Plan.

44.8(1) Development. The director shall prepare an intended use plan (IUP) each year. The IUP will be submitted to a public hearing and approved by the commission and USEPA.



44.8(2) Contents. The IUP will identify the anticipated uses of loan funds available for that fiscal year and will include:

a. A list of projects from the state project priority list (defined in rule 44.7(455B)) that are eligible for SRF loans and any proposed activities eligible for assistance under set-aside authority of the SDWA. The list will include the name of the eligible recipient, applicable PWS permit number, the projected amount of loan assistance, and a schedule of estimated disbursement of funds. The department's list will consider the following in developing the list of eligible recipients for the intended use plan:

(1) Whether a project will be ready to proceed on a schedule consistent with time requirements for outlay of funds;

(2) Whether the project addresses the need upon which the system's priority is based;

(3) Applicant's financial capability to service the loan, provide operation and maintenance, and provide replacement and debt service reserves.

(4) Applicant's statement of willingness to accept all loan terms and conditions.

b. Discussion of the long term and the short term goals of the SRF.

c. Information on the types of activities to be supported by the SRF.

d. The method by which the IUP may be amended.

e. Assurances on how the state intends to meet environmental review requirements of the Act. 567--44.9(455B) Department initial approval of projects.

44.9(1) Project/loan initiation conference. Each eligible loan recipient shall schedule a project/loan initiation conference with the department. The eligible recipient's official representative will meet with the department to discuss the following items and other items relevant to the project/loan as necessary:

a. SRF loan program policies, procedures and guidelines;

b. Allowable costs;

c. Treatment technologies;

d. Environmental impacts and review considerations;

e. Public participation;

f. Scheduling;

g. Other information as needed.

44.9(2) An applicant seeking financial assistance from the State revolving fund for a construction project must provide the following information to the director for review and approval:

a. Plans and specifications must be signed by a professional engineer holding current license to practice in Iowa.

b. Plans and specifications must be consistent with the project/s identified in the application submitted pursuant to subrule 44.7(6).

c. The planned project must be described in full and the construction requirements necessary to complete the project as proposed must be detailed.

d. The project submittal shall include the latest engineering cost estimate for the project.

e. The plans and specifications shall comply with all applicable state statutes, rules, and design standards.

f. Those portions of projects not meeting eligibility requirements may be excluded from the funded project, but included in the submitted plans and specifications if the applicant chooses to keep the loan-ineligible part of the project as part of the overall system improvement. Ineligible

portions of projects are included but not limited to dams, water rights, monitoring costs, operation and maintenance expenses, projects designed primarily in anticipation of future or speculative growth, and projects needed primarily for fire protection.

g. The applicant has or will demonstrate the ability to assure a dedicated source of revenue.

h. The applicant has demonstrated its ability to provide the necessary legal, institutional, managerial, and financial capability to complete the project. Legal, institutional, managerial, and financial capability includes the requirement that the applicant will show the ability to collect the amount of money sufficient to repay the SRF loan.

44.9(3) An applicant seeking financial assistance from the State revolving fund for any project appearing on the Project Priority List must submit information as required under subrule 44.7(6) on forms provided by and acceptable to the department. Departmental review requirements shall consist of the following:

a. Upon review and approval of construction projects submitted as required under subrule 44.7(6), and the plans and specifications as required under subrule 44.9(2), and following a determination that the project meets the applicable requirements of the Act, Federal regulations, Iowa Statutes, and relevant portions of this Chapter, the director shall approve the project in writing.

b. If there is an alteration (change order) to a project after the director approves the project, the eligible applicant must request in writing from the department an amended approval. The director shall review the request and proposed project alteration (change order), and, upon a determination that the project meets the applicable requirements of the Act, Federal regulations or "Drinking Water State Revolving Fund Program Guidelines," dated February 1997, Iowa Statutes, and relevant portions of this Chapter, the director shall approve the project (as amended).

c. The director shall inform the applicant in writing the reason for loan denial and return any application not in substantial compliance with these rules.

567--44.10(455B) Reserved.

567--44.11(455B) Certification of the project to the authority.

44.11(1) Upon approval of a project pursuant to rules 44.7 and 44.9, and certification that the project is listed on the department's current year's Project Priority List, the director shall certify the project to the authority for review and consideration for loan eligibility.

44.11(2) Systems without a certified operator shall not receive loan assistance. Before the financial assistance recipient submits its 50% payment loan disbursement request to the authority (with copy to the department), it must submit to the department the name, certification number and certification expiration date of the operator certified, pursuant to Chapter 567--81, to be directly responsible (in direct responsible charge) for the operation of the facility.

567-44.12(455B) General administrative requirements

44.12(1) Loan agreement conditions. The director in coordination with the authority will prepare a loan agreement when the application has been determined to be in compliance with the requirements of the SDWA and applicable state rules for SRF funding. The loan agreements to be executed by the applicant and the department shall be a binding obligation under Iowa law, shall include conditions and terms to be effective for the loan period, and shall be accompanied by evidence of such security, legality, and enforceability as shall be satisfactory to the director. Each borrower's loan agreement terms may differ due to differences in legal structure and credit

worthiness of eligible borrowers. The expected loan agreement terms will be discussed with the applicant at the project initiation conference described in rule 44.9.

44.12(2) Allowable costs shall be limited to those ~~eligible~~ costs deemed necessary, reasonable, and directly related to the efficient completion of the project. The director will determine project costs eligible for state assistance in accordance with state rule 44.6(455B). Land purchase, easement, or rights-of-way costs are ineligible with the exception of land which is integral to a project that is needed to meet or maintain public health protection, and needed to locate eligible treatment or distribution works. Source water protection easements are considered to be integral to a project. (The acquisition of land or easements has to be from a willing seller.) In addition to those costs identified in 567--Chapter 44, unallowable costs include the following:

- a. Cost of planning and applying for an SRF loan.
- b. Costs of service lines and in-house plumbing.
- c. Administrative costs of the loan recipient.
- d. Vehicles and tools.

44.12(3) The recipients shall maintain adequate records that document all costs associated with the project. Moneys from the SRF and those contributed by the recipient shall be accounted for separately. Accounting procedures shall conform with generally accepted government accounting principles, and auditing procedures will be in accordance with the U.S. General Accounting Office (GAO) publication, "Government Auditing Standards," dated June 1994, ~~standards as defined by the U.S. General Accounting Office (GAO) publication, "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions," dated May 1988.~~ All records shall be preserved and made available to the department, the authority, the state auditor, and the Office of the Inspector General (OIG) of the EPA for at least three years from the date of the final loan repayment.

44.12(4) The recipient shall provide access at all times for the department, the authority, the state auditor and the OIG at EPA to all project records and documents for inspection and audit purposes for a period of three years from the date of the final loan payment. The same access to the project site(s) shall be provided for inspection purposes.

44.12(5) Other federal and state statutes and programs may affect an SRF project. Loan agreements will include an assurance that a recipient will comply with all applicable federal and state requirements. Federal "cross-cutters" which will effect SRF projects include 13 environmental authorities, four economic and miscellaneous authorities, and nine social policy authorities. Each of these specific cross-cutters is delineated in Appendix 1.

44.12(6) The recipient must submit a construction drawdown schedule to the department prior to the award of contracts.

44.12(7) Loan agreements will be binding commitments based on estimated eligible costs prior to construction. A final adjustment to a loan amount may be made upon completion of construction. Loans will be made to eligible recipients as soon as possible after money is available. The SRF will be managed such that contingency money is available in loans to allow for final adjustments in allowable costs as approved by the director. If eligible costs exceed the loan amount, the recipient may request an increase. The director in coordination with the authority will evaluate the request considering available money in the fund as well as the financial risk to determine the appropriate action, including renegotiation of the loan. Should costs be less than the loan amount, the loan shall be adjusted. Any project identified in the

intended use plan for funding in a fiscal year that has not signed a binding commitment by August 31 of the fiscal year may be bypassed by projects of a lower priority that are in a state of readiness.

44.12(8) The director shall have the right to terminate any loan when terms of the agreement have been violated or project activities are not progressing in a satisfactory manner. Loans will be terminated if construction has not begun within one year of the execution of a loan agreement. The director in coordination with the authority will establish a repayment schedule for funds already loaned to the recipient. All terminations must be in writing.

567--44.13(455B) Construction phase and post construction phase requirements.

44.13(1) The loan recipient must notify the director of the estimated project completion date. A final inspection of the project may be performed by the director to verify that construction is complete (except for weather-related items) and conforms with the approved plans and specifications and all approved change orders.

44.13(2) The department shall undertake measures to discern adequate project performance as follows:

a. Three months after initiation of final operation of the project, the loan recipient must certify to the director that the project is operating as planned and designed. This certification must be made on a form provided by and approved by the department.

b. If the loan recipient is unable to certify the project is operating as planned and designed, the recipient must submit a corrective action report to the director for review and approval. The corrective action report must contain an analysis of the project's failure to operate as planned and designed; a discussion of the nature, scope, and cost of the action needed to correct the failure; and a schedule for completing the corrective work, acceptable to the department.

567--44.14(455B) Loan agreements and repayment policy for loans.

Loan agreements shall be entered into for each separate project, with the director and an authorized representative of the applicant signing the agreement. For each investment pool there shall be a single interest rate applicable to all loans made to recipients. Loans shall bear interest for the entire life of the loan at a rate set by the authority. The interest rate will be based on the true interest cost method and may be rounded to the nearest one-hundredth of one percent. The interest rate shall be equal to  $A/B$  times  $(C-X)$ , to which there shall be added, but only if available funds from one or more SRF accounts relating to prior bond issues ("existing SRF funds") will be used to fund a portion of the loans made to the pool,  $D$  times  $E/B$ ; where  $A$  is the total amount of the loans being funded by proceeds of bonds issued for that pool; where  $B$  is the total of all loans to be made to that pool; where  $C$  is the true interest cost of the bonds issued for that pool; where  $D$  is the loan rate used for the original pool of loans from which bond issue the existing SRF funds were derived; where  $E$  is the amount of the existing SRF funds used for loans to the pool; and where  $X$  is the lesser of  $(0.3 \text{ times } C)$  or 2.0 percent. If the existing SRF funds used for the pool are derived from more than one previous bond issue, then a factor of  $D$  times  $E/B$  shall be calculated for each bond issue from which the loan funds are derived and shall be added to the foregoing amount so as to produce a weighted average of interest for that pool. Notwithstanding the foregoing, the interest rate for a loan shall never exceed the yield on the bonds used to fund that loan. In the event the afore-mentioned bonds bear interest at a variable or floating rate of interest,  $C$  shall be equal to the rate set forth in the 20 G.O. Bond Buyer Index in effect on the date that the bonds are delivered.

Loans shall be for a period of twenty (20) years. Fees for servicing the loans may also be set by the authority. It is the intent of the department to charge a loan initiation fee of 1.0 percent of the amount of the loan, payable on the date the loan agreement is entered. It is the intent of the department to charge an annual loan servicing fee of 0.05 percent of the loan principal, due at the time of each annual loan repayment. The Department reserves the right to charge higher credit-based fees to non-governmental recipients (with the exception of non-profit rural water districts). Loan agreements shall include but shall not be limited to provisions whereby the recipient assures water system viability will be maintained, assures compliance with the Act will be maintained, and assures a certified operator in charge of the system in question will be maintained, all for the length of the loan agreement.

All principal and interest shall be repaid in accordance with the terms and conditions of the executed loan agreement. Repayments of principal shall begin no later than two years after receipt of the first loan disbursement. Borrowers must begin repayment of the loan (both principal and interest) no later than one year after completion of construction of the project. Principal payments will be made annually and interest payments will be made semiannually on a schedule determined by the director which is consistent with these rules and financing requirements applicable to the SRF. Repayment of the loan shall not exceed a 20-year repayment period as agreed upon in the loan agreement. Prepayment of the principal in whole or in part may be made, in accordance with the terms and conditions of the executed loan agreement.

The recipient shall use the proceeds of the SRF loan solely for the purpose of funding the project. Timely disbursement from the loan by the borrower shall be made to contractors.

All costs must be documented to the satisfaction of the director before proceeds can be disbursed. Records shall be maintained in accordance with subrule 44.12(3).

The recipient shall agree to comply with all applicable laws, rules, and regulations of the department, the authority, or other federal, state, and local jurisdictions concerning the financing, construction, operation, maintenance, and use of the water facilities.

#### 567--44.15(455B) Sanctions.

Failure of the recipient to repay the loan in accordance with the schedule contained in the loan agreements will result in the loan being declared in default. Should a loan be declared in default, the director shall take legal action to collect amounts past due. Also, other state agencies will be notified and actions will be taken to preclude the recipient from receiving other grant or financial assistance until such time that all delinquent payments have been recovered.

Failure of a project to conform to approved plans and specifications or failure of a loan recipient to comply with the requirements of Chapters 40-44 (pertaining to drinking water supply systems) constitute grounds for the director to withhold authorization of loan disbursements to the financial assistance recipient. The loan recipient is then responsible for assuring that the identified problem in either the plans and specifications or the other relevant portion of the project is rectified such that disbursements may be resumed. Once an agreement for correcting the condition/s which led to the withholding of funds is reached between the director and the loan recipient, the director will recommend that the retained funds shall be released according to the provisions of the agreement.

#### 567--44.16(455B) Disputes.

A person or entity who disagrees with the project rankings, department funding decisions, or the withholding of project funding pursuant to rules 44.7, 44.8, and 44.12 may request a formal

review of the action. A request for review must be submitted in writing to the director by the person or entity within 45 days of the date of notification of the final decision made by the department or department staff. A decision by the director in a formal review case may be further appealed to the Environmental Protection Commission (EPC).

567--44.17(455B) Insufficient priority points. Reserved.

567--44.18(455B) Financial need. Reserved.

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## Appendix 1

Federal Cross-Cutters (Federal laws executive orders, and government-wide policies that apply by their own terms to projects and activities receiving Federal financial assistance, regardless of whether the statute authorizing the assistance makes them specifically applicable).

### Environmental Authorities

- Archaeological and Historic Preservation Act of 1974, Pub. L. 86-523, as amended.
- Clean Air Act, Pub. L. 84-159, as amended.
- Coastal Barrier Resources Act, Pub. L. 97-348
- Coastal Zone Management Act, Pub. L. 92-583, as amended
- Endangered Species Act, Pub. L. 93-205, as amended
- Environmental Justice, Executive Order 12898
- Floodplain Management, Executive Order 11988, as amended by Executive Order 12148
- Protection of Wetlands, Executive Order 11990
- Farmland Protection Policy Act, Pub. L. 97-98
- Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended
- National Historic Preservation Act of 1966, Public Law 89-665, as amended
- Safe Drinking Water Act, Pub. L. 93-523, as amended
- Wild and Scenic Rivers Act, Pub. L. 90-542, as amended

### Economic and Miscellaneous Authorities

- Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754, as amended, Executive Order 12372
- Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal Contracts, Grants, or Loans
- Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended
- Debarment and Suspension, Executive Order 12549

### Social Policy Authorities

- Age Discrimination Act of 1975, Pub. L. 94-135
- Title VI of the Civil Rights Act of 1964, Pub. L. 88-352.
- Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 (the Clean Water Act)
- Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (including Executive Orders 11914 and 11250)

- The Drug-Free Workplace Act of 1988, Pub. L. 100-690 (applies only to the capitalization grant recipient)
  - Equal Employment Opportunity, Executive Order 11246
  - Women's and Minority Business Enterprise, Executive Orders 11625, 12138, and 12432
  - Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590
  - Anti-Lobbying Provisions (40 CFR Part 30) [applies only to capitalization grant recipients]
- 

\_\_\_\_\_  
Date

\_\_\_\_\_  
Larry J. Wilson, Director

(A copy of the Public Responsiveness Summary is on file in the department's Records Center)

Mr. Stokes briefly reviewed the rules.

*Motion was made by Rozanne King to approve Final Rule--Chapter 44, Drinking Water Revolving Fund. Seconded by Charlotte Mohr. Motion carried unanimously.*

**APPROVED AS PRESENTED**

## GENERAL DISCUSSION

Rita Venner commented that the Commissioners received a letter regarding the Pocahontas drainage ditch issue and asked if there is anything that can be done on that.

Director Wilson reported that a meeting between all involved parties was held last Monday at the State Forest Nursery. He related that there are 160 acres that the Soil and Water Conservation District (SWCD) owns and want to use part of it as mitigation. The U.S. Fish & Wildlife Service have resisted that because there is an existing 40-50 acre wetland on the 160 acres, plus there are some other marginal wetland areas there. Their position is that it was already a protected wetland area and they will not allow the SWCD to use that as a mitigation site. Director Wilson related that he met last week with Jim Gulliford from Dept. of Agriculture and Land Stewardship, who said there is going to be another meeting with US F&W and the Pocahontas County folks. Director Wilson asked Mr. Gulliford to get back with him if there are problems existing after that meeting, and the F & W Division would perhaps consider some mitigation on some of the department's properties in that area.

Mr. Stokes stated that a second issue was whether or not the department would allow less than 1 to 1 offset in mitigation. He related that the NRCS has come up with a "Values and Functions" model that purports to go in and take a look at the wetland being destroyed and the one being proposed for mitigation, which would predict under certain conditions whether less than 1 to 1 mitigation could be done. He noted that staff were led to believe that NRCS had

three models when in fact they only had one model, which deals with upland topography. He added that staff are now evaluating that model. Mr. Stokes stated that there is going to be developed a model for sloping topography and a separate one for wetlands along river areas. He related that the question was whether DNR would accept the NRCS models, and the answer is that the department would consider less than 1 to 1 mitigation but on a case-by-case basis, after field evaluation by F & W Division and EPD Division staff.

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Director Wilson stated that the department does not know at this point what can be offered but staff are willing to look at wetland enhancement. He added that he needs to hear back from Jim Gulliford before any decisions are made.

Discussion took place on composting sites in Iowa that have failed and the various types of those that are successful. Also discussed was the burning of tire derived fuel.

Director Wilson stated in regard to a comment DeCoster's counsel made about setting the monthly EPC agenda and the Director's role in that process, he testified in Clarion exactly how the agenda is prepared. He noted that the division administrators bring the agenda items to an agenda meeting in his office on the first Monday of each month, and Junie records all of the items and subsequently enters them on an agenda. Director Wilson related that he does not tell the division administrators which items to bring for the agenda, adding that the division administrator brings the items, it is discussed and then goes on the agenda. The agenda is then approved by the Chair of the EPC Commission prior to being printed.

Director Wilson stated that he noted Mark Landa's comment about the wood chip pile at a park in Urbandale. He related that the land for that park was purchased with Land and Water Conservation Fund money and there are restrictions on the use of the land. He added that staff will check on this matter.

### **ADDRESS ITEMS FOR NEXT MEETING**

The next meeting will be on Tuesday, January 20, 1998 because Monday the 19th is the Martin Luther King holiday. The legislative breakfast put on by the Commission will be on Wednesday, January 21, 1998.

### **NEXT MEETING DATES**

January 20, 1998 (Tuesday)  
February 16, 1998  
March 16, 1998




December 1997

Environmental Protection Commission Minutes

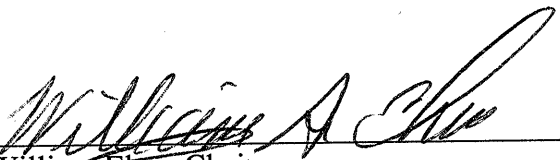
**ADJOURNMENT**

With no further business to come before the Environmental Protection Commission, Chairman Ehm adjourned the meeting at 4:00 p.m., Monday, December 15, 1997.


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Larry J. Wilson, Director



William Ehm, Chair



Charlotte Mohr, Secretary

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RECORD COPY

File Name

ADM-1-1-1

EPc Meeting  
Dec. 1997

Agenda Initials

JS

# Agenda

## Environmental Protection Commission

December 15, 1997

10:00 AM

Wallace State Office Building, Fourth Floor Conference Room

### Public Participation

10:30 A.M.

### APPOINTMENTS:

A. J. DeCoster Referral (Item #17b)

1:00 P.M.

Mark Landa (Item #16) OTC Contested Case Petition for Stay

1:30 p.m.

### Agenda topics

1. Approve Agenda
2. Approve Minutes of November 17, 1997
3. Director's Report Larry Wilson (Information)
4. Monthly Financial Status Report Stan Kuhn (Information)
5. Iowa Access Project - Environmental Permitting Status Stan Kuhn (Information)
6. Evaluation of Retailers Consumer Education Program, Phase I Final Report Sharon Timmins (Information)  
Roya Stanley
7. Contract Amendment - Laidlaw Environmental Services Sharon Timmins (Decision)  
Roya Stanley
8. Monthly Reports Allan Stokes (Information)
9. Nonpoint Source Pollution Control Project Contracts Allan Stokes (Decision)
10. Grants to Counties - FY 99, Well Testing, Abandonment and Rehabilitation Allan Stokes (Decision)
11. Proposed Rule--Chapter 92, State Revolving Fund (CWA) Allan Stokes (Information)
12. Notice of Intended Action--Chapter 20, 22, 23, 24, 25, 28, 29 and 31, Air Quality Rules Update Allan Stokes (Decision)
13. Notice of Intended Action--Chapter 102 & 103, Solid Waste Rules Allan Stokes (Decision)
14. Final Rule--Chapter 50, 51, & 52, Agricultural Drainage Wells Allan Stokes (Decision)

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|-----|---|----------------------------------|
| 15. | Final Rule--Chapter 44, Drinking Water Revolving Fund                     | Allan Stokes ( <b>Decision</b> ) |
| 16. | Contested Case Appeal--Organic Technologies Corporation Petition for Stay | Allan Stokes ( <b>Decision</b> ) |
| 17. | Referrals to the Attorney General   | Allan Stokes ( <b>Decision</b> ) |
|     | a) Organic Technologies Corporation (Warren County)                       |                                  |
|     | b) A.I. DeCoster (Hamilton County)  |                                  |
| 18. | General Discussion  |                                  |
| 19. | Address Items for Next Meeting  |                                  |

**Next  
Meeting  
Dates**

January 20, 1998 (Tuesday)

February 16, 1998

March 16, 1998

# ENVIRONMENTAL PROTECTION COMMISSION

Monday, December 15, 1997

NAME

COMPANY OR AGENCY

CITY

(PLEASE PRINT)

KELLY RINEHART	NORTH DALLAS LANDFILL	PERRY
Joe Robertson	Marshall County Solid Waste	Marshalltown
Tom Hadden	Metro Waste Authority	D.M.
JEFF Dwyer	Metro Waste Authority	D.M.
Cathy Woollums	Mid American Energy Co.	Davenport
Hal Morton	Des Moines Co. Reg'l. Solid Waste Comm.	Burlington
BETH SHONTS	MWA	DM
Jane McAllister	Ahlers Law firm	DSM
Jean Inabe	GROWMARK	Bloomington, IL
PETE Duffy	S.C.I.S.W.A.	Tracy, Ia
DUB Kozel	LFB	Des Moines
Elizabeth Henderson	IDED	DSM
Dale Johnson	Ice Farm Bureau spokesman	WDM
Lee Friell	UHL	Des Moines
Mark Erickson	UHL	Des Moines
Harold T. Elliott	HCL	W City
Curtis Smith	SCHLOTZFELOT ENG	Webster City
Gary Schmitt	NEIRSWA	FT. Dodge
Timothy Hall	ISO SWO	Des Moines

# ENVIRONMENTAL PROTECTION COMMISSION

Monday, December 15, 1997

NAME	COMPANY OR AGENCY	CITY
(PLEASE PRINT)		
Ally Patterson	Guthrie Co Environmental Health	Guthrie Center
Kathy Morris	SASWMC	Davenport
JERRY FLEBLE	BIRP	WLB
Perry Beeman	Dm Registrar	DM
DEBRA McDONALD	USA WASTE SERVICES	BLUE EARTH, MN
Terry Smith	Central Disposal Systems	Lake Mills, IA
Tom Clark	Barker Environmental	OTTUMWA/DES MOINES
Rod Bracht	CR Byggh	CR
Susan Heathcote	Iowa Environmental Council	Des Moines
Scheffie Sawyer	The Messenger	Ford Dodge
Elliott Waddell	Five States Engineering	Westfield
ELLIOTT SMITH	IA. Assoc. of Bus. & IND.	DSM
Dave Hershberger	NW & A SW	Sheldahl Ia
Jerry Hirtges	Terracon Environmental	DSM
Rick Heller	REIC of Iowa Co.	Homestead
CHRIS GAULT	Iowa Co. Landfill	WDSM
William Mahler	FARM BUREAU	DM
Cindy Turkle	Sims Club	Indianola
	Turkle-Clark Env.	

ENVIRONMENTAL PROTECTION COMMISSION

Monday, December 15, 1997

NAME

COMPANY OR AGENCY

CITY

(PLEASE PRINT)

MIKE MALLANEY  
Mark Landa  
D. Schmedlbeck

Smith Law Firm  
Sullivan & Ward  
Brown Wenick

D.M.  
D.M.,  
"